

**ICANN  
Transcription  
GNSO Temp Spec gTLD RD EPDP  
Thursday, 01 November 2018 at 13:00 UTC**

Note: Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at: <https://audio.icann.org/gnso/gnso-epdp-gtld-registration-data-specs-01nov18-en.mp3>

Adobe Connect recording: <https://participate.icann.org/p9nqid6q6w4/>

Attendance of the call is posted on agenda wiki page: <https://community.icann.org/x/pg68BQ>

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Terri Agnew: Good morning, good afternoon and good evening and welcome to the 22nd GNSO EPDP Team meeting taking place on the 1st of November, 2018 at 1300 UTC for two hours.

In the interest of time, there will be no roll call. Attendance will be taken via the Adobe Connect room. If you're only on the telephone bridge would you please let yourself be known now? Hearing no one, we have listed apologies from Ashley Heineman of the GAC; Georgios Tselentis of GAC; Chris Disspain, ICANN Board; and Leon Sanchez of ICANN Board. They have formally assigned Laureen Kapin and Chris Lewis-Evans as their alternates for this call and any remaining days of absence.

During this period, the members will have only read-only rights and no access to conference calls. Their alternates will have posting rights and access to conference calls until the member's return date. As a reminder, the alternate assignment form must be formalized by the way a Google assignment form and the link is available in the agenda pod to the right and also the meeting invite email.

Statements of interest must be kept up to date. If anyone has any updates to share, please raise your hand or speak up now. Seeing or hearing no one, if you need assistance updating your statement of interest please email the GNSO Secretariat.

All documents and information can be found on the EPDP wiki space and there is an audiocast and view-only Adobe Connect for nonmembers to follow the call. So please remember to state your name before speaking.

Recordings will be circulated on the mailing list and posted on the public wiki space shortly after the end of the call. Thank you and with this I'll turn it back over to our chair, Kurt Pritz. Please begin.

Kurt Pritz: Thanks very much, Terri, and thanks, everyone, for attending today. The agenda is up in front of you. After some opening administration remarks we're going to discuss Purpose E which has to do with data escrow and there are really two parts to data escrow, the registry data escrow and registrar data escrow so there's two parts to that and been working on gathering data, data elements for that so I think we're pretty close to complete.

And then we want to share with you the first version – the proposed draft initial first version of the initial report that been working on, you know, up until – not too many minutes ago, and so while we haven't distributed yet we'll take you through it and we'll put a link to a wiki page so you can download if you want. So that's the agenda.

And with that in mind, I just want to remind you to complete the face to face Doodle poll. We know who hasn't completed it yet but there's no public shaming here so – or at least yet – so if you would do that we will set the meeting hopefully we'll cast dates by the end of the week, which is tomorrow, and then make arrangements with the Meetings Team and get confirmation on that the first of next week. There's the link to the Doodle poll right there.

For outstanding action items, could that document be put up and either Caitlin or Marika take us through that? Can I pause this for one minute and allow Kavouss to make a short announcement regarding the ITU election? Oh the ITU election, I thought this was about the Doodle poll, Kavouss, but go ahead, you have 30 seconds.

Kavouss Arasteh: Yes, the – good afternoon, good morning, good evening to everyone. This organization, the ITU, has the election of the leadership today and Mr. Houlin Zhao from China was reelected as the Secretary General, Mr. Malcolm Johnson from United Kingdom was reelected as the Deputy Secretary General; and Dr. Chaesub Lee from Republic of Korea Director of Telecommunication Standardization Bureau; and Microsoft. Doreen Martin-Bogdan was elected as the first lady in the ITU as the Director of the Telecommunication Development Bureau. Thank you.

Kurt Pritz: So, Kavouss, I have a yes or no answer, is that set of elections good for the multistakeholder model?

Kavouss Arasteh: I think the election is always ITU improving its situation with the multistakeholder process and there are new proposals to bring the ICANN and all other organization in the ICANN which is currently in a footnote in the resolutions into the body of the resolution. If this is successful that would be another step toward a better collaboration with the ITU and ICANN. And I as a member of the ITU going to that meeting next week will do our best to improve the relations and to work together fruitfully and successfully and positively. Thank you.

Kurt Pritz: Thanks, Kavouss. Caitlin, would you go through the action items please?

Caitlin Tubergen: Yes, Kurt. Thank you. This is Caitlin Tubergen for the transcript. As I mentioned on Tuesday's call, we still have some outstanding action items that were circulated during the face to face meeting in Barcelona so if everyone can please remember to submit their feedback for small teams 1

and 2 which are the natural versus legal debate and the geographic basis respectfully. The original date for submission of feedback on those was I believe October 29, Monday. However, please get all feedback by tomorrow, November 2 so that staff can incorporate that into the draft initial report.

Similarly, feedback on the data elements workbooks, for the purposes for processing, is also due on – tomorrow, Friday, November 2. Also the document that we circulated at the face to face which isolates the responsible parties, so controller versus process, please also submit feedback on that by tomorrow, November 2.

And just quickly a couple of action items remaining from Tuesday's meeting, Margie, you are to provide some further details on UDRP details for Purpose B. Please provide that by tomorrow so that we can incorporate it into the initial report. And also I believe Kristina, Milton and Amr were going to discuss Purpose N further to see if any additional language needed to be incorporated into the data elements workbook for Purpose N. And that's all of the action items I have. Back over to you, Kurt.

Kurt Pritz: Thanks very much. And it looks like there was progress on that action item judging from the chat. So to sort of emphasize the importance of getting this done, Marika, could you put up the timeline that we put up in the last meeting? And I just want to point out that – and this should be shared with the group, and I think what we should do is put this in graphic form to make it clearer to people like me that like pictures better than words.

But if you scroll through it, if you scroll through it you'll find that, you know, essentially time's up. You know, I think this group's done a great job in large part arriving at consensus on – or not – I don't want to say the word "consensus" yet because I'm not allowed to, but, you know, agreements on some really tough issues. And I think many of the toughest issues are behind us, but now in the next few weeks I think we want to identify the gaps we have in the initial report and fill as many of them in as possible because if this

initial report isn't complete enough to, you know, pass muster than another sort of initial report will be required and that'll mean we miss our deadline.

And, you know, this date for publishing the initial report here is pretty much hard up against – there might be a few more days. So the first step of that is completing these action items so I urge you to do that. And, you know, I can't believe I'm giving this speech because I'm not very good at these sorts of speeches because I know you know the importance of what we're doing and the importance of these deadlines more than I.

Marika, do you have more to add?

Marika Konings: Yes, thanks Kurt. If I can just, you know, make one additional point as part as well of encouraging people to really get, you know, any issues that they think need further discussion, especially when looking at the data element workbooks and the small team language and by this Friday because that will be essential for leadership team and staff to plan out, you know, the meetings that are needed between now and the target date for publication to make sure we're able to address all those comments.

So again it doesn't necessarily need to be a full fledged, you know, this is a rewrite of, you know, certain data element workbook but we're mainly looking for is flagging items that, you know, you feel uncomfortable about or you think are not fully fleshed out yet that need further consideration by the group. So again, we're able between, you know, Friday and 19th of November, which is the target date, to map out, you know, the topics that need to be covered and also align that with the calls that will be needed.

I think we're still working on the, you know, two calls a week but we may need to see if additional time is needed to get through that to make sure we can factor that in.

Kurt Pritz: Benedict, you have something? Thanks, Marika.

Benedict Addis: Yes, thanks, Marika. Just wondering if there's place for sort of editing for clarity at this stage? Would you like that to happen or would you like that to happen later on? Thanks.

Kurt Pritz: You know, I like clarity and as I read through the initial report you know, I was making those same kind of judgments too so if you think something is unnecessarily vague, you know, I think editing is okay, but I would be very judicious because we want to be careful not to change the meaning. You know how we discuss individual words and so I found myself resisting the urge to that, so use your best judgment and a 2H pencil. I hope that's good enough direction. Kristina.

Kristina Rosette: Yes, Kristina Rosette, Registry Stakeholder Group. Thank you for providing this updated timeline especially in the visual form, which is much easier for me and I think a lot of folks. I think the one thing that frankly jumped out at me, or rather its omission jumped out at me, is the absence of any supplemental public comment period. And to me that's concerning for a couple reasons.

First, it suggests that there won't be any material change to any of the recommendations after the initial report goes out for public comment. And second, and a corollary factor, is it also seems to presume that we're essentially ruling from the outset that there could be any public comments that we would receive that would perhaps cause us to reevaluate and then make additional changes.

And if those are both true, I'm a little concerned by that. And I suspect that there might be some additional explanation or background that the leadership team could shed on this? Thanks.

Kurt Pritz: Just want to make sure I wasn't on mute. You know, I think this follows the GNSO policy manual or at least the manual for – the process for the

expedited policy development. There is, you know, a step 12, publish recommendations for public comment, so you know, first of all we're trying to hit a date so we all know we have to be somewhat pragmatic about that.

And second of all, if there's – second, there's – if there is a public comment that sort of derails the thinking or something like that, we can you know, that gives us the opportunity to say whoa. So to a certain extent, actually to a real extent, this is a, you know, quote unquote go right schedule, but you know, we essentially need things to go right in order to hit our date.

So I think there's that emergency stop in there with a second public comment before the Board considers the recommendation. And you know, we as a group can either, you know, recommend to the GNSO Council or the GNSO Council itself will say whoa, look at this, I don't think this is ready to go for the Board, we want to take it down. So I think there's that stop in there.

And then, you know, the third point I want to make is – and this is a very pragmatic point, but there's no represented group in our community that's not part of this and there's no represented group that's not consulted with by the members here that's not part of this. And our discussions are pretty much in depth, so I'll be sort of surprised if we learn of approaches that we haven't considered yet. And so I'm not overly concerned about bombs in the public comment, but I think there's a relief valve if that does occur.

I don't know if that's a good answer or not. And, Kristina, you're welcome to respond to me if you want before I call on Kavouss.

Kristina Rosette: No, I just put in chat what I was going to say, mainly I think it would be really helpful to include either in connection, you know, maybe a forward, or I don't even know, something in connection with the initial report that lays out this timeline that specifically addresses kind of where we might have that additional public comment period particularly because – and I have not looked at the most recent draft – but I know that we've talked for a couple of

these topics that we should put questions out to the community. And I think if we're serious about asking the questions and serious about getting the answers I think we need to at least flag for folks where we might have time to build that in because I think otherwise there will be an assumption of the worst and I don't think that's going to be helpful to us. Thanks.

Kurt Pritz: Thanks, Kristina, that's a good warning. Kavouss.

Kavouss Arasteh: Yes, I have a comment with respect to the timeline, Item 13, that is currently called "Optional." The first item I have a comment on that. This item to asking or informing GAC whether or not these recommendation would have any public policy issue, should not be under the optional, should be under the main because the GAC is at least one of the (five) responsible for the public policy issue so the matter is not optional. So I suggest that we take this item from the optional and move it to the initial one and inform them. This is point 1.

And point 2, when we informed them on 23rd of February, we asked them to reply at the latest and the deadline and I think that deadline would be before the document going to the Board for consideration. We should not make it open because they may not reply to that. It is very important this link will be maintained within the GAC and the GNSO. Whenever we have GAC Advice, GNSO has a comment always and you have recommendation, GAC may have comment as well.

Therefore I suggest that removing this item 13 from the optional to the initial part of the text. And second, we put a deadline for the GAC reply to the question raised by sometime not later than the next meeting with the ICANN, that means ICANN GAC 64, which is in March 2019. Thank you.

Kurt Pritz: Thanks very much, Kavouss. And you know, I'm not sure – my reading of that was that optional applied to the public forum discussion only and not the GAC



– informing the GAC, so we'll make that really clear in a version of this timeline that we publish so thanks for pointing that out.

I see some capitals. Kristine. Milton?

Milton Mueller: Hello, everybody. This is Milton Mueller. I just wanted to express support for what Kristina said, perhaps a little more strongly that we're going to need public comment on the revisions we make after the public comment period and to find out whether the changes we make are actually acceptable.

Kurt Pritz: Thank you, Milton. Let's get onto the substantive part of the discussion. So I want to review Purpose E which has to do with data escrow. And we're putting up a doc here. And could you put in the wiki link or the Google Doc link or whatever it is to this document so people can look on it on their laptop as well as in the Adobe room because I know some people prefer that.

And I think Marc Anderson, were you going to take us through the – some of this wording here?

Marc Anderson: Hey, Kurt. It's Marc Anderson. Can you hear me?

Kurt Pritz: Yes, perfectly.

Marc Anderson: Okay. Yes, this is Marc. And I could sort of tee this up a little bit, you know, Berry, you know, I worked with Berry a little bit to, you know, get some of the wording in here but happy to kick things off. A little bit of background, Purpose E is the discussion on escrow. And this was started in a small breakout session in LA. During that, that small breakout session we focused only on registrar escrow and didn't have time to get to registry escrow. And so Berry and staff asked me to sort of take the work that was done for registrar escrow and adjust it for registries.

And so I started that, that work, in LA and sort of got distracted by other things and finally in Barcelona sort of wrapped up my edits to worksheet E and sent that along to Berry. A lot had changed in the meantime, including the template and so Berry took my feedback and put it into the new worksheet format and that's what I think everybody sees in front of them today.

Over this past week I've been spending a lot of time you know, going through reviewing the worksheets and, you know, I think in some cases, you know, they reflect the fact that, you know, we've made edits to edits to edits. And in some cases I think we've sort of lost track of the, you know, the forest for the trees, we're looking at these things so closely. And by saying that, that's my way of saying, you know, sometimes I think we need to take a step back and look at okay, what are we trying to achieve?

And so I, you know, in preparing for this I was thinking about that with escrow. And what we're trying to do is make sure that, you know, the processing – the escrow processing that registries and registrars, I'll lump registrars in that too, although this is specifically about registries, you know, our objective here is to make sure that, you know, the processing that registries and registrars are doing to escrow registrant data is compliant with GDPR.

I think that's, you know, really the task in front of us; what we're trying to achieve, our objective if you take a step back and look at that at maybe 1000 foot view. And so I went through the worksheet again and I looked at the temporary specification again as well, and Appendix B in the temporary specification is what deals specifically with escrow. There's a smattering of escrow references throughout the document, but Appendix B is supplemental data escrow requirements.

And there, you know, if I were to take some liberties in interpreting what the temporary specification is trying to accomplish, I think it's basically in the case

of escrow it's trying to make sure that the escrow agreements themselves – and that's the agreements that take place between the escrow agent and depending on the specific arrangement, the registry, the registrar and in some cases ICANN, are compliant with GDPR.

And so really I think that's exactly where we are as a working group and exactly where our recommendations reside. I don't think I've heard any discussion or any opinions from anybody on the group that escrow itself is not a legitimate processing activity that the escrow itself needs to substantively change, you know, that we shouldn't do it or need to make major overhauls. I think, you know, in my review and in looking at the comments and the worksheets and the temporary specification, I think the main concern is that the agreements themselves, which in many cases are quite old and predate GDPR significantly, really need to be refreshed in order to take into account GDPR.

And I don't think that's changed at all. And so if you look through my comments, in the first one, the purpose rationale, Berry put in the text I wrote in my worksheet, the draft recommendation there is really that data processing agreements should be reviewed and updated as necessary to ensure they're in line with GDPR, I'm paraphrasing a little bit.

So if you, you know, if you take this up to the 1000-foot level, I think that's, you know, that's really what we're saying around Purpose E and escrow. You know, escrow data, I don't think anybody is objecting to or suggesting, you know, wholesale changes to it, you know, merely that the agreements themselves, you know, they, you know, the legal, you know, the legal arrangements between escrow providers, registries, registrars and ICANN, you know, predate GDPR and could really benefit from a refresh related to that. I think that's reflected in the temporary specification and that's really the draft recommendation language that I included in my worksheet.

So I hope that helps. I've tried to take this, you know, up to the 1000-foot level, not, you know, not get wrapped around the axle on the individual words here, but try and talk about sort of the, you know, the principle at a high level what I think we need to accomplish from the point of view of escrow. So I'll turn it over to – turn it back to you, Kurt, and anybody has questions, happy to try and answer them.

Kurt Pritz: So that was really thoughtful. So what's the – Berry, go ahead.

Berry Cobb: Thank you, Kurt. Berry Cobb for the record. Just to build on what Marc was saying here, you know, again this registry purpose for Purpose E was modeled after the registrar purpose because it was in a much more matured state. As he also mentioned, I incorporated his comments into, you know, our new workbook version. What I would like to draw the group's attention to is there is kind of a departure from some of our other working groups and this goes to – towards Page 2 under the lawfulness of processing test section.

And specifically there's a couple of points that the group should consider here under Echo PA1, our Processing Activity 1. I think as Marc stated, you know, that registry escrow is a downstream processing activity and there really is – there's nothing collected specifically for the purpose of escrow. So what's being suggested in this workbook and possibly the registrar workbook, we'll circle back to that in a minute, is that perhaps the EAP1 processing activity of collection is really considered or taking place likely under Purpose B so that more or less this processing activity would remain blank. But of course there's still the transmission disclosure and retention processing activities that are still relevant to the – that area of escrow.

And then secondarily, what I would like to point out is moving down to the data elements matrix, what you'll also notice here is that the fields that are marked for the three processing activities, transmission, disclosure and retention, right now are just modeled or extracted from what the registrar workbook contains now. What I'm suggesting or at least for the group to

consider as to what makes sense, if you'll recall maybe a week or two before we left for Barcelona we put together a draft – we put together a draft compilation of all of the collection processing activities across all of our purposes and you'll recall way over to the far right there was some logic – this always happens, sorry about that.

You'll recall in that example over in the far right there was logic that was built into that matrix that would understand if there was any particular data element that was marked as required or those that are marked as optional, and I know that there's still some aspects to optional that we need to work through, or thirdly if the field wasn't required.

So what I'm contemplating that might be best for the registry purpose here is that after we have more or less finalized our workbooks, we've confirmed that the – at the individual data element level, all of the data elements are required for transmission from the registrar to the registry that that compilation is what would be reflected in the three processing activities of transmission, disclosure and retention here. So that would kind of be an after effect once we have worked through the workbooks.

And I'll just point that the registrar escrow version, you know, at least based on the current RAA is very specific about what data fields are actually included into – into that escrow deposit so we'll just want to make sure to confirm that those pretty much will stay in the same or at least match in line with what is currently listed under the RAA but again, the registry version which is much more of a complex escrow deposit will basically be an end result of the data that we understand is being transferred from registrar to registry across their purposes and lastly that it, you know, I think especially in terms of implementation that what we're amending here at least from a policy perspective doesn't disrupt the technical criteria by which that escrow deposit is forming.

And one last statement, at the beginning of our group's deliberations, and I believe also within the temp spec, there is also the aspect of EBERO, emergency backend registry operator. Based on initial review of that process, you know, the idea or our question was, does EBERO require a separate workbook from escrow? And in reviewing the EBERO process, it as one subcomponent to that process is that the registry escrow is invoked. And so I think the question on the table is, of the overall EBERO process, is there any other registration data that is – that is collected or transferred to the EBERO provider that exists outside of an escrow deposit?

So for the initial indication doesn't seem to think that so perhaps the way forward is that we just document within this workbook and later in the report that under the terms of EBERO escrow is invoked, refer to workbook E slash registries, for understanding what the escrow deposit is. A lot to unpack there. I'll answer any questions if need be. Thanks.

Kurt Pritz: Yes so maybe for this group as a first round of comments, and again, I think this works really, really thoughtful is one, any comments on the draft recommendation and, two, as far as the processing itself, I find the argument that collection is omitted from data escrow to be quite compelling. So if you want to talk about those two things? Thomas.

Thomas Rickert: Thanks very much, Kurt. And hi, everyone. I guess for EPA1, the collection, it says that – and A at the moment, I think we need to speak to that since that is a processing activity that the data subject needs to be informed about at the time of collection of the data. If we don't speak to the purpose of collecting the data for escrowing it or for that matter for potentially passing it onto the EBERO, if we don't make that transparent then we would need to deal with a change of purpose subsequently, which is always problematic. So I think I would recommend to adjust that bit for escrow and EBERO so that we're on the safe side. Thank you.

Kurt Pritz: And that would be a change to this purpose, right, Thomas, not Purpose A.

Thomas Rickert: I'm talking about the EPA1, collection of registration data for escrow.

Kurt Pritz: Right.

Thomas Rickert: Basically it says that no additional data is being collected, which is true.

Kurt Pritz: Right.

Thomas Rickert: But we need to be transparent about this additional purpose of collecting data for escrowing it and for making it available to the EBERO.

Kurt Pritz: Transparent to the registrant?

Thomas Rickert: Correct, the registrant or the data subject needs to be informed at the time of the collection about the purpose of collection or processing and the various processing activities. You know, it's just to add an additional two or three sentences, let the data subject know that in addition to the other things that we have identified the data will also be transferred to escrow agents and in case of registry failure, to an EBERO.

Kurt Pritz: Okay. And I'm sorry for asking follow up questions, because, yes, I think that's captured well in the chart but this isn't consent in any way, right? This is still, you know, we're still using the same lawful basis or legal basis for this data processing.

Thomas Rickert: So, Kurt, if this question is for me, in my view this would be covered by 6.1(f)...

Kurt Pritz: Right.

Thomas Rickert: ...with no consent from the data subject required.

Kurt Pritz: Right, so it's just – okay, Emily.

Emily Taylor: Hi, Kurt. A very quick one. I just was requesting the – whether Berry could summarize his remarks and just put them in the list because it was quite rather complex – there was quite a lot of complex stuff in his remarks and just wanted to see – take a look at those on the list if that's okay? Thank you.

Kurt Pritz: Thanks, Emily. Yes, I've learned when certain people talk I take note paper out and I do that with Berry because I know he has a lot of meaningful things to say. So Berry, if it's all right with you could you succinctly write an email to the list that lays out what you said? And I hope we capture and discuss most of these issues here. Thanks for that intervention, Emily. Alan Greenberg, how are you today?

Alan Greenberg: Thank you. I'm presuming that what will eventually be presented to the registrant is the union of all of the collection, you know, all of the purposes associated with collection. Given that and assuming that's right, then I think there has to be a purpose here because we are using the data and therefore there's a purpose associated with collection even if there isn't any additional collection. So I agree that there needs to be a purpose for the collection.

With regard to EBERO, just a minor nit-picking point, there's a number of references in the document where we're saying we need to re-look at the various contracts, and I think we need to reference EBERO there also. Thank you.

Kurt Pritz: Thanks, Alan. Those are two good comments. I think that's a good place to mention EBERO. And, you know, I wonder if language that says – okay, so I'm just rereading the draft recommendation so I think that's put the right way; we don't want to re-look at contracts, we just want to have a policy that says they're GDPR-compliant. So Berry's captured that write up in the chat so that's good.



And I think we've discussed this too, but Berry's final point was about capturing EBERO within this purpose, which I think is the right approach and we discussed a couple ways of doing that. Are there any comments about that? I think we kind of already covered it. So there's a little, so Berry, to Emily's point, are there specific – oh go ahead, Marc.

Marc Anderson: Thanks, Kurt. It's Marc Anderson. You know, when I filled out the worksheet I didn't specifically mention EBERO, I focused just on the registry escrow activity, you know, but when Berry was doing this he pulled, you know, into his draft, he pulled EBERO in so there is some reference to there. And how it relates to registrar escrow is kind of interesting, and when we did the registrar escrow activity in LA we noted, you know, there is no EBERO equivalent, ICANN, you know, in the case that escrow is necessary, ICANN picks a registrar to take over.

And in the case that it's needed for registries, it's similar except that it's not the universe of accredited registrars like registrars, it's just the EBERO providers under contract, which you know, I think there are currently three. So I think you know, I think the, you know, the activity itself is not, you know, is not substantially different, you know, it's just you have, you know, these EBERO providers that ICANN chooses from so just all the ICANN accredited registrars.

You know, so, you know, it's a long way of saying I think it's materially the same question from registries to registrars. That said, when the small group met in LA, the one thing we noted that should be considered is that, you know, the, you know, the jurisdiction you know, a jurisdiction change for a registrar may be impactful, for example, if the, you know, the failing registrar was based in Europe and, you know, the gaining registrar was in North America, that may have ramifications. And so we just sort of noted that.

And I think probably the same thing applies from EBERO. You know, I'm not sure, you know, I'm not sure exactly what the, you know, what a

recommendation would be from our group but I think it's worth noting, it's something we discussed in LA specific to the registrar worksheet for Purpose E, and probably applies to the registry worksheet for Purpose E on EBERO as well. Thanks.

Kurt Pritz: Sorry, everyone. Alan Greenberg. Thanks very much for that comment, Marc.

Alan Greenberg: Caitlin has her hand up, maybe you want to go to her first.

Kurt Pritz: Okay. Thanks. Thanks, Alan. Caitlin.

Caitlin Tubergen: Thank you, Alan. I did have a quick response to Marc's comment and I just wanted to note for the group's information that ICANN does have a process called the de-accredited registrar transition procedure. So perhaps to Marc's point the group could recommend that one of the points for ICANN determining a gaining registrar in the event of a failing or terminating registrar is to consider the (unintelligible) implications when designating that gaining registrar. And we can write something up to be included in the initial report for the team's review if that would work for that issue. Thank you.

Kurt Pritz: Great, Caitlin. Thank you. Go ahead, Alan.

Alan Greenberg: Okay thank you. Just two small points, it dawned on me as we're talking about this that escrow really has two purposes, one is in case of a catastrophic event of the registrar or registry to get their own data back. I'd like to think every registrar and registry has their own backup and that wouldn't be necessary but nevertheless that is a conceivable use of it. The other is in the case of a failure to transfer and it just dawned on me that although the escrow purpose for registrar failure and the EBERO purpose for registry failure are effectively the same, we've named them differently, inconsistently.

So we've named the registrar one, "escrow" the process of saving the data; and the registry one is the process of retrieving the data, the EBERO, the

emergency backup. So it's – it just points out that, you know, we've used these terms differently but they ended up having the same impact even though we've used – we've named them after a different part of the process. Thank you.

Kurt Pritz: So I think that's right. I think the purpose is the same. I'm channeling James. I think I know what he means by not exactly but I don't know if it's a – James, if you want to make the point, raise your hand, but – go ahead, James.

James Bladel: James speaking. And I think that the difference is, is that the EBERO steps in sort of as a life boat for a registry that has exclusive operation of a TLD, where the escrow from the registrar side is really meant to – for a reassignment of a portfolio in case there's a business or technical failure. So I think there is a, you know, I think in practical terms and for the purposes of defining Purpose E we could probably treat them fairly similarly, but I think for example, an EBERO would take over, you know, essentially whole hog of a TLD data where as a registrar portfolio might go out for bid, might have multiple interested registrars, might have no interested registrars, so it's a slightly different process and I think that's probably what leads to the different nomenclature. But I think that for this purpose we can probably treat them as mostly equivalent. Thanks.

Kurt Pritz: Right, I don't think – and I don't think it affects – Marc's writing but I think it's good that we think of the – our efforts holistically. Berry.

Berry Cobb: Thank you, Kurt. Berry Cobb for the record. And just to tack on what James said, in response to Alan's question, and that's pretty much what I'm trying to capture in the graphics between the registrar version and the registry version. You know, at a high level the process is relatively the same, you know, a deposit is sent from the contracted party to the escrow provider. In the event of a – for registrars in the event of a de-accreditation, and eventually there's a registrar or a gaining registrar that is awarded those domains, in effect that

escrow deposit is disclosed to that gaining registrar so that they can transfer the names, etcetera.

And in a roundabout way, or at a very high level, the same occurs for a registry should there be this catastrophic failure and EBERO services are invoked, that escrow deposit from the registry is provided to that escrow – that EBERO provider and service is somewhat restored. So I'm hoping at the high level that this accomplishes that need. In reviewing through the various workbooks, I think it would be good for us to just confirm that these graphics are an accurate reflection of the processing activities that we've defined here. Thank you.

Kurt Pritz: Thanks, Berry. And I like the graphic representation quite a bit. Margie.

Margie Milam: Yes, hi. This is Margie. Regarding the purpose for the escrow, I note that we don't have B here, 6.1(b), and in hearing, you know, the way we're thinking about this it seems that it's an integral part of the registration agreement, if you will, to ensure that the registration still survives after potential failures of either the registrar or registry. And so I guess my suggestion is it possible to also include, you know, certainly not exclude F, but also include a reference to the possible application of B. Is that something we could consider?

Kurt Pritz: Marc, do you have a response for that?

Marc Anderson: I do. Thanks. This is Marc Anderson for the transcript. You know, the, I mean, 6.1(f) versus 6.1(b) is something we discussed a lot in general and certainly that was the case on this purpose as well. You know, and while we were in LA you know, we talked about it a lot, you know, we had a breakout group and then I think a follow up breakout group talking about it. And there were, you know, there were differing schools of thought and, you know, when I, you know, when I put together the worksheet, you know, what I – the approach I decided to make, and when I filled out the worksheet and sent it to Berry I went with 6.1(f) only.

And, you know, realizing, you know, maybe you can make a case for 6.1(b), maybe you can make a case for 6.1(f), maybe we should do both, I decided to put 6.1(f) in there because you know, I think what we're trying to do is set, you know, sort of a minimum baseline requirements for what, you know, for what the processing activities need to be. And I think from a minimum baseline activity, 6.1(f) makes the most sense.

You know, I think you know, any, you know, any processor or, you know, registry or registrar that wants to make the case for 6.1(b) would be free to do so, I think there would be nothing that would prevent that. But for our purposes, I think 6.1(f) is the clearest and easiest one to make. And I note, you know, Amr and Thomas are saying in chat that, you know, I know some people think 6.1(f) is the only valid route to take and, you know, I think it's a stronger path and I think that registries and registrars, if I, you know, I can take a leap here and try and speak for registries and registrars, I think registries and registrars are fine performing the escrow processing under 6.1(f).

You know, and so you know, I think it's just, you know, for our purposes here as a working group, I think it's just – it's sufficient for us to just say 6.1(f) is a likely legitimate – or is a likely legal basis for processing escrow and for our purposes it makes sense to use that as our assumption and go with that. You know, I recognize that that's not like, you know, a consensus view of the entire group, but I think you know, for our purposes it would just make much more sense and be easier for us if we assume 6.1(f) and proceed with that.

Margie Milam: And this is Margie. If I could reply? I don't remember where we landed on the legal analysis thing because I thought this was something we were going to explore but I wasn't in that sub team on the potential for legal analysis. And so, I mean, obviously I heard all those arguments back in Los Angeles. I feel like it's something we should call out in the worksheet as perhaps an alternative view. One of the things I worry about in being too narrow in our

application of the purposes is that we still don't yet know how some of this is going to be interpreted later on.

And it could be that as, you know, DPAs and others start providing, you know, input and advice on how to read these sections it might actually fall into place. And the reason that I raise it in the context of escrow is I would hate to be in a situation where a registrar decides not to provide the information to ICANN because they feel that they, in their view, the balance of interests, you know, are, you know, in favor of the registrant not having that information in escrow and therefore ICANN doesn't have the ability to require it.

So that's the reason I raise it, you know, and I understand that many on the team that feel that it's not fully applicable. But I would encourage us at least mentioning it as an alternative.

Kurt Pritz: So I'm going to...

Marc Anderson: Kurt, can I...

((Crosstalk))

Kurt Pritz: Go ahead.

Marc Anderson: Kurt, if I could follow up real quick? I think one of the, you know, Margie raises, you know, one of the main concerns with 6.1(f) is the, you know, is, you know, 6.1(f) is, you know, she's pointing out that there's, you know, there's a balancing act and she's concerned that a registrant could, you know, refuse to provide data. But, you know, I think if you look at the balance of the worksheet, you know, we're saying we don't collect data to escrow it. We're only escrowing data collected for other purposes.

And, you know, and so I think, you know, I think her, you know, I think her concern is addressed by the fact that, you know, processing, you know, the

collection of the data is justified under other purposes and that pursuing the legitimate interests here under 6.1(f) for escrowing the data, you know, is, you know, is, you know, is a much clearer path.

You know, and so, you know, so I get, you know, one of the big concerns about 6.1(f) is, you know, is the balancing act that occurs. But, you know, like I said, considering that, you know, the data is not collected to be escrowed, you know, as a registrant you don't register a domain name so that your data can be escrowed. But, you know, it would be, you know, reasonable and in my interest you know, as a registrant that that data is escrowed in the event of business or technical failure. So, you know, so, you know, I understand her concern but I think that's, you know, that's mitigated by the way, you know, we've laid out the worksheet E as, you know, as being merely a downstream processing activity.

Kurt Pritz: Thanks. So for other worksheets we've included 6.1(b) as a possibility and I think we're going to do that in this one and consult with DPAs. I want to say though that a couple things, under 6.1(f) or 6.1(b), I don't think there's any difference in the data collected or, well we've already said that, or transmitted so I think the effect is the same. And I think what our policy is saying that 6.1(f) is a legal basis for processing the data in this way so data escrow and the use of EBERO is going to be written into the contracts and the contracts are going to require this.

And so there's essentially I guess a balancing that occurs every time, but the balancing is exactly the same and in effect it won't occur. So what we're saying here is that 6.1(f) is the legal basis so we can write this into the contracts and then, you know, to not process data in this way would require the registry or registrar to violate their contract and get some dispensation from ICANN in order to do that. And I think that's the same whether ICANN – regardless of what legal basis we use.

So you know, I think – Margie, I think your concern is addressed by the fact that we're going to write this stuff into the contracts because we've declared 6.1(b) is a valid legal basis for doing that so it's in the contracts so I think that's going to close. I don't – you know, and – but I don't disagree with that. We can include a note in here about 6.1(b) as a possibility and, you know, put that in the – so Marika's correcting me. So I don't disagree that we can add 6.1(b) in here as a possibility and consult with DPAs on that.

We've been at this quite a bit, if anybody has anything different to say other than what's been said before, you know, I don't really want to discuss this further. So I'm asking for people to put down their hands, but for those that haven't, Emily.

Emily Taylor: Thanks, Kurt. Very quickly, to Margie's point about 6.1(b) and I think this is a new point at least in this call, 6.1(b) itself doesn't just, you know, doesn't guarantee that something is GDPR-compliant whereas the exercise we're going through which is looking at all of the justifications and the legitimate interests, more or less as expressed in 6.1(f) will get us to a stage if – particularly with this one where I don't hear any disagreement around the table that this is a legitimate thing to do and actually ultimately in the registrant's interests to do, that the 6.1(b) is almost a downstream thing; it isn't something that you can just pop into every situation and say well it's in the contract, therefore it's lawful and complies with GDPR.

It's the other way around, so that's just a very quick point and quick response to Margie's point on that.

Kurt Pritz: Thanks, Emily. Alan.

Alan Greenberg: Thank you. Just when I think I'm starting to understand everything, I get more confused. When we're talking about under EPA1, are we talking about collection of the data by the registry, because this is a registry purpose. Or are we talking about the original collection by the registrar?



Kurt Pritz: Berry or Marc?

Marc Anderson: Sorry, Alan, this is Marc.

((Crosstalk))

Marc Anderson: ...which one are you talking about again?

Alan Greenberg: I'm talking about EPA1, the collection by the registrar. The collection is from the registrant is done by the registrar. We're talking about a registry purpose here. Are we referring back to the original collection from the registrant? Or are we referring to the collection essentially the receiving the data by the registry?

Kurt Pritz: From the registrar.

Alan Greenberg: Yes.

Kurt Pritz: Go ahead, Berry.

Alan Greenberg: Berry has his hand up.

Berry Cobb: So, yes, yes that was – that's correct. The original intent is that the collection occurs at the registrar from the registrant and then subsequently in the second processing activity is transferred from the registrar to the registry. And I believe that's why Marc and the Registries were thinking that, you know, in terms of looking at the purpose of escrow there is no need to actually collect the data from the registrar via the registrant or data subject because that is covered under Purpose A already.

And as Thomas notes in the chat, the registry doesn't collect data from the data subjects directly. But as we noted, for EPA1, that we'll make this cross

reference back to the Purpose A in terms of the transparency aspect to the data subject that they're – your data is being escrowed that we discussed earlier.

Alan Greenberg: Okay, so essentially we're saying the data is being collected, among other reasons, to – for thick registries to transmit to the registry who will in turn transmit it to the escrow agent?

Berry Cobb: Yes, that's my understanding.

Alan Greenberg: Okay, given that I'm not sure that...

((Crosstalk))

Alan Greenberg: ...the collection activities needed here. But I would argue from the registrar's point of view, since we're now talking about the registrar doing the collecting, that it is 6.1(b). Specifically a registrant registers a domain name, not only to put the entry in the table but to presume it's going to stay there for the life of the registration and that may require escrow – invoking escrow in case of a failure of either the registry or registrar. So I'm, you know, since we're talking about the registrar doing the collecting, I would argue that 6.1(b) is a strong reason because the registration contract is for a period of time and the registrant has an expectation it will be maintained for that whole period of time. Thank you.

Kurt Pritz: All right, I'm going to resist coming. Go ahead, Diane.

Terri Agnew: Diane, this is Terri. I see where your mic is activated and unmuted, however, we're not hearing you. And Diane, it's Terri, we're still not hearing you. Please let me know if you would like a dial-out on the telephone? And please check the mute on your side.

Kurt Pritz: Hadia, do you want to go while we get Diane hooked up?

Hadia Elminiawi: Sure. I actually was not sure that we (unintelligible) no special data is required for the purpose of escrowing. So I'm not sure why we do have here among the processing activities collection of registration data for escrow. And because collection actually – nothing is particularly collected for the purpose of escrow.

And if we are to put collection of data of registration data for escrow, assuming that there's something special that we collect in this regard, then I (unintelligible) 6.1(f), it is certainly a 6.1(b) if we do have a special kind of data collected for escrow because (unintelligible) definitely in the – this is definitely because this definitely goes under the performance of the contract. However, again I'm not sure that we need to have this activity at all within the purposes.

Kurt Pritz: Thanks, Hadia. And you know, I think that's why Berry was mentioning that collection be actually eliminated as a purpose. Is Diane hooked up yet? I'll go with...

((Crosstalk))

Diane Plaut: Can you hear me now? No?

Kurt Pritz: Thank you again.

((Crosstalk))

Diane Plaut: Hi. Can you hear me now?

Kurt Pritz: Yes, you're a little fainter than we'd like to be.

Diane Plaut: Okay, let me...

((Crosstalk))

Kurt Pritz: I don't want to talk about purposes anymore. We'll include a note in here about the possibility of 6.1(b) and maybe I'll take a shot at writing an email about it. Go ahead, Diane.

Diane Plaut: Okay, well that was my main discussion. I just will quickly add that while 6.1(b) under GDPR does strictly require that there be privities of contract for the necessary fulfillment of a contractual obligation, I do think that to Margie's and Alan's points, that if the updated escrow agreement are put into place, and the appropriate data processing agreements are put into place with model clauses to cover for the transfers of the data as we're discussing it, that there is a basis to be able to have 6.1(b) as an alternative basis or additional.

Kurt Pritz: Thanks, Diane. Marc.

Marc Anderson: Thanks, Kurt. You know, I guess, you know, I'm not sure exactly where Berry landed on, you know, the collection as a processing activity, but I wanted to, you know, I wanted to make sure I stated, you know, that, you know, for escrow the processing activity we should be talking about is just the escrow the data and that collection is occurring for other purposes. You know, so, you know, so I think that was sort of, you know, what led to Alan's initial question is why do we have this other processing activity? We shouldn't. We're not collecting data so it can be escrowed.

You know, we're escrowing existing registration data – or registration data collected for other purposes in the event of business or technical failure. So I wanted to make sure that was clear. And then, you know, on 6.1(f) versus 6.1(b), I'll just, you know, make one final, you know, I guess plea on this one is that, you know, I think, you know, to all, you know, working group members, you know, again trying to you know, speak on behalf of contracted

parties here but, you know, contracted parties I think are – we're comfortable doing processing the data for escrow under 6.1(f), right?

I mean, you know, you're hearing from, you know, from the people that will actually do the processing activity that we're comfortable that 6.1(f) provides us a legal basis for us to perform this contracting activity. You know, and so we're comfortable with that. I want to ask working group members to consider it like, you know, can you be comfortable with that too? If we're comfortable actually processing the data under 6.1(f), why is anybody objecting to this? So, you know, I realize that, you know, there's, you know, you can debate it, you know, it's not a done deal, but if the contracted parties, the ones doing the processing activity are comfortable with 6.1(f), you know, can that be good enough for the working group?

Kurt Pritz: And maybe the contrapositive to that is contracted parties might be uncomfortable using 6.1(b) as a legal basis because it's not as defensible. Amr, take us home.

Amr Elsadr: Thanks, Kurt. This is Amr. And thanks, Marc, that was – I think I agree pretty much with everything you just said. But I just wanted to again repeat what I may have said in the chat a little earlier that, you know, for the purpose of escrow regardless of the activity, whether it's transferring the data or whether it's the escrow agent retaining it for a period of time, these are processing activities that are done as a result of the contract between parties that the data subject is not a member of.

So I don't understand how 6.1(b) could be a lawful basis that we could rely on or that we could ask you know, ICANN or its contracted parties or the escrow agent to be comfortable with when faced with, you know, meeting legal obligations in terms of GDPR. We need to make sure that, you know, these folks are covered and I don't think 6.1(b) is going to do that simply because the data subject is not a party to the contract that results in these processing activities. So I think it would be a good idea to just go ahead with 6.1(f). I

think it does it. And as Marc has stated, you know, contracted parties are comfortable with this moving forward. Thank you.

Kurt Pritz: Thanks, Amr. Thanks for the discussion, everyone. I want to – we took a little more time with that than I wanted. I want to take some time to display the initial report and I don't think we've done it yet, Marika, and if we haven't, could you put in the link to the initial report? Don't like touch it when it's on your laptop because the ink is still a little damp. And then, Marika, are you going to kind of describe what's in here? Not kind of describe.

Marika Konings: Yes, thanks Kurt. This is Marika. I've just put in the link and the Adobe Connect room to where you can download the PDF version of the draft initial report. You know, we didn't want to send it to you just prior to the meeting; it's quite a lengthy document and we didn't overwhelm everyone with it. But of course we'll circulate it after the meeting, and as said, for those that prefer to look at it on your own screen you can download it from the link I sent below.

So wanted to take this opportunity to briefly walk you through the content of the initial report, which will heedfully facilitate your review of this document but also provide you with a clearer perspective of where we're currently at as well as identify, you know, the areas where, you know, some further discussion or work may be necessary.

So what I first put up here on the screen is basically the table of contents so you have an idea of what is currently captured in the initial report. You know, Chapter 3 is something that, you know, we already put the skeleton of that together shortly after the LA meeting and, you know, you already saw that but we've kind of substantially beefed that up with all the work that has been taking place, you know, since the LA meeting.

The other parts are new but as I think we explained before, those are more of a, you know, description in nature; they basically outline, you know, some of the required elements that an initial report is expected to contain to ensure

that, you know, the broader audience understands you know, how the group developed these recommendations, what it was tasked to do, who were actually involved in the deliberation and, you know, what was done to obtain clearly the input and what input was provided.

Of course, you know, it will also have an executive summary here but that is obviously a part that will be updated at a stage when we're in a more final form of the initial report to be able to capture that.

What we've done in the report, and I'll slowly start walking you through it, as said, you know, executive summary has some of the background elements already there but the biggest part and the meat of course of the report will be the proposed response to the charter questions and the preliminary recommendations which will need to be updated.

You know, we tried to be quite detailed as well in explaining the approach that the group has taken, how we've moved basically from, you know, original fact finding and triage effort through to the discussion summary indexes to the data element workbooks, the small teams that we've used as well as, you know, mediation techniques that were applied. So again, you know, the community is able to follow along how the group ended up you know, with the responses and to the charter questions as well as preliminary recommendations.

So as said, you know, I think this is really the heart of the report and, you know, that will probably be the focus of attention for those, you know, reviewing it but also for the work of the EPDP team in finalizing this document.

So what we've tried to do is basically capture for all the charter questions, you know, the work that has been done up to date. And, you know, I want to be clear there, that basically reflects the work, you know, until the end of ICANN 63. So some of that what you see in here doesn't reflect yet you

know, conversations that we had today or earlier in the week or some of the input that was received on the mailing list but it aims to provide a kind of, you know, status quo of where things were at the end of ICANN 63, again, noting that, you know, some of the parts that are in here were not agreed yet or signed off yet or they're still under discussion.

So we just want to make sure that is very clear; this is not intended to be – represent an agreed-upon responses or recommendations, but is just to give you a view of what it would look like if, you know, what we did last would be plugged into the initial report.

So what we've tried to do is kind of with highlighting and color coding to get a bit more clarity on what are kind of outstanding items and what are issues that, you know, are more kind of updates that staff will need to make based on where certain things land or updates that are made to different documents that we're working on.

So basically the items that are highlighted in yellow are just more flags for staff to kind of update those aspects based on either how the report comes back together, it's kind of referencing annexes and different parts of the report so that needs to be in a more firm state for us to do that as well as you know, of course flagging some of the documents that are being worked on separately and we just need to make sure that, you know, for example, once the data element workbooks are finalized that we make sure that, you know, those two align and have the same content.

And then there are also sections in here, and I'll just scroll down to one of those, where, you know, we've highlighted of flagged language in blue. So either language in blue is reflecting, you know, documents still under discussion, so for example, it captures the latest state of the small team 1 and 2 conversations but as said, you know, that language is not final, it's just basically to, you know, have a placeholder for where the conversation is currently at but clearly recognizing that that is information that will need to be



further updated as the group works through that, or it covers area where staff has, you know, suggested some language based on the conversations to date, and I think where that has happened we've clearly marked that in brackets as something for, you know, the group to review and consider. And again, you know, calling it out in blue as something, you know, to come back to and further discuss.

Then there are also a couple of areas, and I'll scroll there now, where we flagged questions in red. And those are basically questions where we currently don't have, you know, either a draft response or haven't really discussed those in detail and we briefly captured, I think some of these as well during our – the last session at ICANN 63 where probably it would be helpful if, you know, someone is willing to volunteer you know, to write up some draft language that could go into the initial report.

And again, that, you know, I think we called these out in that meeting as well, talking about, you know, registrar's responsibilities, registry's responsibilities, and as well ICANN specific duties, so maybe this is something where, you know, we could have some volunteers put forward some language.

I'll release the document for scrolling now so you can have a look through it as well. You know, in addition then after that the document continues in kind of outlining what the next steps are, you know, for the group and then it contains a number of annexes that talk about the background, you know, details the membership of the group as well as attendance in the meetings. It outlines the community input that was obtained as a result of early input, and then, you know, of course, you know, part of the substance of the report and, you know, of course we're pulling out certain aspects of the data element workbooks in the Chapter 3, but we'll also be annexing the full data element workbooks so people are able to see that in detail and kind of understand the whole thinking process of the working group and how it resulted in those recommendations.

So we really hope that this is helpful. As said, you know, this is a first draft. We'll need to consider and discuss further how to best, you know, manage, review and possible you know, updates and edits to the document. Of course staff will be working in parallel as agreements are reached on certain aspects of the work, you know, certain recommendations for example were discussed in relation to escrow earlier today so those will need to get incorporated.

It should also, you know, reflect as we go through, you know, the small team work as well as finalizing the data element workbook so that is all work that will need to happen. But there may be of course other areas where EPDP team members may want to weigh in or want to discuss further.

So I think from a staff perspective, the first priority should really be for the group to look at I think mainly Section 3, and flag whether in addition to all those areas that have already been highlighted in blue so those are kind of on record as items that will need to be further discussed or finalized, to indicate if there are any other aspects that you believe need further conversation or whether, you know, and if not we're kind of assuming that it means you're comfortable with at least going out for public comment.

What we did as well, and I didn't call at out yet, and I think it goes a little bit towards I think what Kristina was talking about earlier as well, what we did try to do is already start as well for each of the sections identify specific questions.

So basically questions that the group would like input on in response to the public comment period. And I'll just take you to one of these so you can have an idea of that because something we discussed as well within the leadership team that probably for public comment it would be really helpful if we can direct people to answer questions that, you know, the group really would like to have input on instead of making very general statements or covering areas that the group has already discussed, to really try and focus public comment

through the asking of specific questions and really see if that is a way of getting very targeted feedback.

So again, of course if you have suggestions on how we can, you know, phrase those questions even more specifically or whether there are additional questions we should be calling out I think that is another area where we'd really welcome input. So I think that's in a nutshell, you know, what staff has worked on. You know, we hope that it does show that, you know, a lot of work has already been done by the group and it's really coming together in the form of the initial report.

Of course there's still, you know, quite a bit of work remaining but in this way we hope that it's at least clearly mapped and as we discussed before it will allow for, you know, the planning of work between now and the publication of the initial report by focusing on those areas and, you know, updating those as needed. So I'm hoping that was helpful and happy to take any questions or comments.

Kurt Pritz: Thanks very much, Marika. I have two comments, one is even though you're just seeing this now, so you can't really react to it, you know, I just saw it for the first time – or went through it for the first time yesterday, and spent, you know, a few hours making comments and understanding it. The next step for us on the support team will be that now that we have this together to review it and do sort of a gap analysis between where we are and where we want to be for the initial report. And as Marika stated, those are largely the highlighted items in the report.

But what we plan to do taking into account what's in this initial report and then your input on the workbooks and other deliverables and the action items we'll work over the next few days so that we have a, you know, we do that gap analysis and schedule the next few or several meetings with the intent of covering those so we have an initial report that's officially complete.

A second kind of more detailed comment I want to make, since the – well the questions are in – the first question is in front of you, maybe still if you're not scrolling around is, you know, while the questions are posed in the order of document, we're working on a way to collect comment in a way that the comments are easily sortable or that, you know, comments are made on individual purposes, not all the purposes together so that you can read them easily and do your analysis more easily. And of course that's combined with the public comment tool that the Policy support team has developed for past weekend.

And I see Berry's noting about over the weekend the workbooks will be combined into one document so it's – so it's easier for you to see the gestalt version of that.

Third, one of the tests I'm doing is kind of taking all the recommendations and just lining them all up by themselves without the supporting documentation. I think that goes to Benedict's clarity question earlier and that is that's sort of one way to test the clarity is let the recommendations kind of stand on their own. So that's one test I'm doing.

So with that, does anybody wish to comment? I don't know, before Benedict comments, Marika, so what's our homework and how are we going to comment on this?

Marika Konings: Thanks, Kurt. So as said, I think from a staff perspective our hope is that, you know, the initial homework would be to focus on identifying, you know, what other areas should be marked in blue. So basically what other aspects of the initial report should be discussed, you know, leading up to the publication of the initial report?

I think following that, and I think you know, that's something we probably need to discuss how to go about any other edits or input that people want to make on the initial report. I think, you know, as we said before, anything that's

kind of clarifying input or, you know, any grammar issues that are identified or any other, you know, minor things of course, you know, please send those to us, you know, off list, you know, we're happy to fix those. But of course as you noted as well, there's a delicate balance between clarifying something and changing the meaning.

And similarly, we'll probably need to think a bit about how to go about, you know, any changes to, you know, recommendations especially where it pertains to agreements that were previously reached. So I think we need to be very careful about and again, that goes to everyone in the group, when you provide input, you know, make sure that it kind of doesn't take us back to discussions that we've already had and conversations that were, you know, already closed.

So maybe we can ask the group to focus on that and then I think leadership will maybe want to discuss how to go about, you know, soliciting specific input and what is the best way of doing that because redlining may not be the way and maybe...

((Crosstalk))

Kurt Pritz: Yes, so that was really my question. I think it was more of a process question, how should we submit comments?

Marika Konings: Yes so I think for now basically, the first ask is to focus on areas that need to be in blue so just basically indicate...

((Crosstalk))

Kurt Pritz: No, no, but my question is really should we be putting this out and redlining it in some way? Should we be sending an email with a comment? How should we be submitting that?

Marika Konings: Yes, okay. Got your question now. So staff preference would be, and we'll produce a version that has line numbers. So our preference would be that you would basically submit your comments on the mailing list, identifying clearly you know, the line number you're talking about and the proposed changes that you're making. And again, this pertains to, you know, substantive issues; if there's a minor spelling mistake just send it to us off list and we can fix that.

In that way staff will be able to kind of collect, you know, the different pieces of input and try to reconcile those and of course take back any items where you know, there may be differing positions because we're worried if redlining may make things kind of messy and hard to keep version control so our suggestion is to work in that way, we produce a line numbered version and people submit to the list, you know, their comments, issues, questions by indicating the line number and explaining what they want to discuss or what they would like to see changed with the rationale for that and then, you know, that allows others as well then to react to that and for staff to reconcile it with any other input that may be received on similar items.

Kurt Pritz: Thanks. Okay, Benedict, thanks for being patient.

Benedict Addis: Hey, no worries. Actually just a question for contracted parties and perhaps Alan has a thought on this. I've been reviewing the Purpose F workbook and it's really vague about the processing. It would say essentially that the contracted parties transmit data to ICANN for compliance purposes. Can anybody comment at the moment, is that by purely registrars or both registrars and registries? And in the future what do you guys envision and please only responses from contracted parties on this one. Thank you.

Kurt Pritz: So just so everybody remembers Purpose F is about contractual compliance and data transferred to ICANN. Go ahead, Alan.

Alan Woods: Thanks. Can you hear me all right?

Kurt Pritz: Yes, thank you.

Alan Woods: Perfect. Sorry, one second. Sorry there's just a lot of background noise here. To be honest, Benedict, if we could possibly think about that because my brain is not actually switched to F at the moment, but if we can just have a ponder about it and get back to you on that one I think it might be a lot easier.

Benedict Addis: No worries. And thanks, Alan. But the reason I ask is I'm just trying to work out the – I've written a Purpose O, research, as I've been asked to do to, with Farzi and I have been working on, and that's finished and I just wanted to sort of highlight that my current thinking is that that data should go from the normal flow for thick registries, i.e. collected from the registrant by the registrar, and transmitted to the registry where they're thick and then – and safeguards applied at the registry and then that – whatever data is – the safeguarded data for research that is then passed to ICANN Org in just the same way that we do for compliance.

So and I just wanted to find out if anybody had a – felt that that was really awful and wants to raise any objections to that, otherwise I'll ping that language around and – to the list in the next half hour or so. Thanks.

Kurt Pritz: I think half an hour is pushing up against the deadline so I'd like to see it but does anybody have an immediate comment to Benedict's question? Emily.

Emily Taylor: Hi, thanks for the question, Benedict. I think the answer unfortunately is it depends and also the data shared with compliance is not always personal data, it might well be information about a registry or registrar (pages) and how they are compliant with this numerous obligations aside from personal data processing that exist in the contracts. Thanks.

Kurt Pritz: So I want to continue to – anybody got their hand up? No, good. So I want to continue to think about how we can best submit comments on this and in

some sort of regular way. So, you know, I'll collaborate with the support team, maybe we can come up with a format for commenting so everybody's comments are kind of in the same, you know, format here, here's the line or section we're talking about, here is the, you know, here's the text and here's what I would change and here's the rationale or something, but we'll, you know, I think we should come up with a standard commenting format so we can easily understand everyone's comments and there's the right amount of rigor to each comment.

Also, you know, I want to – I want to emphasize I think Marika's last comment or penultimate comment about deference given to the decisions of the group that the group's already made, so if you think that something needs to be changed I think part of that comment should be this isn't what the group decided, the group decided something else, so that would be the best way to recommend changes in the text that's not highlighted.

And then finally we, you know, the most important thing for us to is to identify those thing that we think have to be done in order for this to be an initial report that meets the requirements of an initial report which is, you know, really clear in what the potential agreements are. So please look at the report from that eye because this is our product and we want it to stand up to scrutiny at the end of the day.

So I know it's almost impossible to comment on this work so I'm going to pause for 30 more seconds and then ask Marika or Caitlin if we have any actions coming out of this meeting. Caitlin, you want to go ahead?

Caitlin Tubergen: Thanks, Kurt. This is Caitlin Tubergen for the transcript. I have four action items coming out of this meeting. Excuse me. The first action item is for the support staff to update the workbooks to make a reference back to Purpose A transparency of collection to the registrant and data subject. And the support staff will also make a notation or reference under Processing Activity 1, or EPA1 which is collection of registration data for the purpose of escrow.



Second action item is for Berry to summarize his discussion about Purpose E analysis and send that via email to the list. Third action item is for support staff to draft a recommendation for the EPDP team's review and that recommendation is in reference to adding the jurisdictional impact to the gaining registrar for EBERO designation. And lastly, the leadership team will brainstorm an effective methodology for the EPDP team to review the initial report. Thanks, Kurt. Back over to you.

Kurt Pritz: Anybody have any closing comments? Great, well thanks very much for a good meeting, everybody, and I have like 24 hours off from GDPR. So we'll be talking to you soon and I'm sure I'll see you on email exchanges. Thanks very much. So long.

Terri Agnew: Thank you, everyone. Once again the meeting has been adjourned.

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