

**ICANN Transcription
GNSO Temp Spec gTLD RD EPDP call
Tuesday 02 October 2018 at 1300 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/epdp-temp-spec-gtld-registration-data-02oct18-en.mp3>

Adobe Connect Recording: <https://participate.icann.org/p8c8jk8cgp9/>

Attendance is on the wiki page: <https://community.icann.org/x/JQWrBQ>

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page:
<https://gnso.icann.org/en/group-activities/calendar>

Coordinator: Recordings have started.

Terri Agnew: Thank you. Good morning, good afternoon and good evening and welcome to the 16th GNSO EPDP Team meeting taking place on the 2nd of October, 2018 at 1300 UTC.

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 could you please let yourself be known now? Hearing no one, we have listed apologies from Milton Mueller from the NCSG, Matt Serlin, RrSG, Leon Sanchez, ICANN Board, and Chris Disspain, ICANN Board. They have formally assigned Collin Kurre, and Lindsay Hamilton-Reid 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 your right.

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 statements 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. I'll turn it back over to our chair, Kurt Pritz. Please begin.

Kurt Pritz: Thanks very much, Terri, and thanks very much for being here for a timely start. I hope everybody made it back to where they were going okay. We've put up the agenda here, there's opening comments from me and then we'd like to kick off today where we made significant progress in the meeting in Los Angeles are the finalizing the legal bases for each of the purposes, the purposes for processing registration data that we developed during that meeting and then for Purpose C, which is to enable communication with the registered name holder.

There was a good conversation and that's pretty well settled; there are some outstanding issues there so that. And then the last agenda item is really something we want to save time for and that's the meeting schedule going forward after this between now and Barcelona. And actually the schedule includes Barcelona too, so I want you to carefully look at the timing and the

topics of those meetings and provide feedback so when you think or don't think they'll get us where we need to go.

So very briefly, recapping the EPDP meeting, so that's something that'll either take 30 seconds or 30 minutes, so you know, I think, you know, I look – I continue to look forward to any comments you have about what worked well and what didn't work well there.

We're partway through an effort but we've got a ways to go and so we want to continue to amend how we do things to make your time here more effective. I just discussed the meeting schedule going forward so we're going to talk about that at the end of the meeting. I think it's worthwhile spending a few minutes on the outstanding action items that came out of the LA meeting because there was some considerable homework there so you can see – look at your screen that they're coming up and they're a little bit big on my screen so I guess I'll kick on this minus arrow.

So I'm going to read through these, this looks like a long document so I'm not going to read through them. So which ones are the ones that came out of the meeting so the first one, the Registry and Registrar teams were going to do a first draft of data elements – the data elements workbook for Purpose B. So what I want to do is just read through these and then, you know, if your team or group that has the assignment and kind of has it and understands it that's fine, but if you have questions or problems or uncertainty or request help, it'd be great to raise your hand because we want to get clarity amongst us all so that we get the work done on time and then we can move forward on this. As everybody knows, everything is time critical, right?

So, Marc, if you don't mind I'll read through these and then I'll call on you. So Registry Registrar teams to develop first draft of the data elements workbook for Purpose B so that's filling in the blanks in that data elements workbook about – you know what they are. The purposes for processing, I see complete data elements for Purpose E, Registry data – that's where the

registries are being asked to identify which data elements are being escrowed and complete the work, so we ferreted out from the RAA the registrar requirements but not the registry requirements so we want to complete that part of Purpose E for that.

And the next one, data elements Workbook N, that's Kristina Rosette's – that's Kristina Rosette's new purpose so we'd ask to finish that. And finally for Benedict, proposed additional draft language for research so I know he and Farzaneh combined on some language for that so that's kind of underway. So I don't know – I'm the only one scrolling here. I don't know if I'm in control of this is just scrollable by you.

For data processing requirements, Appendix C, is this an ICANN action to provide an illustrative joint controller agreement so that the team can look at it? I'm not so sure, so maybe somebody can type into the chat from the support team whether that's a ICANN requirement or not. And then at the bottom work on a forward to outline the controller designations between ICANN and the contracted parties so that's sort of the same thing.

And then I just want to point out there was a couple others, there was one for ICANN Compliance staff to provide us with the data elements they need so we can complete that workbook. So that's the actions I have coming out of that. Marc, thanks for being so patient.

Marc Anderson: Thanks, Kurt. Marc Anderson. Can you hear me okay?

Kurt Pritz: Sure, I can hear you.

Marc Anderson: Okay great. Thanks. Just a question on that first one, registry and registrar teams to develop first draft of data elements workbook for Purpose B, so I'm a little confused by this task and I guess I must have missed it when it came up in LA so apologies for that. But I guess my confusion is that for Purpose B, I thought the agreement was that there would be no new data elements

collected and so this is, you know, so I'm not sure I understand the task of identifying data elements because I guess this is – as I understand it, this is the universe of data elements collected for other purposes. So I guess you know, I'm looking for clarification on exactly what this task is.

Kurt Pritz: Right, so I'm going to ask Marika to speak. I might have misspoke myself, so the data elements, you're exactly right, so the data elements are settled; they're the ones that are captured for other purposes. And so what's required if we're identifying the purposes as – in the scenario where it's a solely a registry registrar purpose, the rest of the workbook questions need to be completed. Marika, can you help me out here?

Marika Konings: Yes, this is Marika. Yes, you're absolutely correct, it's about the whole data elements workbook, so, yes, you can just note for the data elements that you don't need to fill that out separately but just basically reference that. That is based on what is already collected for other purposes but it's more about the other parts because I believe, you know, registries and registrars offered to fill it out from the perspective of registries and registrars so that the broader group could have a better idea what that would look like and in that context of that further consider, you know, whether or not this should also be an ICANN purpose or whether further changes would need to be made to the wording of the purpose as it currently stands. So that is the action item at this stage.

Kurt Pritz: And I see Alex, chimed in with the same sort of comment. And I think it has more to do with how I characterized it at the beginning, so Marc, does that answer your question?

Man: Yes it does. Thanks. That's helpful. I guess I was just getting hung up on the data elements wording there, but your explanation makes sense. Thank you.

Kurt Pritz: Yes, I think I said it wrong the first time, that's why. Hi, Kavouss. How are you today?

Kavouss Arasteh: Yes, I'm good. How are you today? How the others are good...

((Crosstalk))

Kavouss Arasteh: Yes, and the picture, I was keenly looking to see the picture, the people are so many advertisement for the picture (unintelligible) and so on so forth, legal access and so on, so something I wish very much to receive those photos and enjoy look at them because I don't know many of you by face, I know you by voice.

So having said that, we are talking of other purposes, I understand we have ICANN purpose, registry purpose, registrar purpose and possibly if I'm not mistaken, the third party purpose. What are the other purposes, other than this or just only (unintelligible)? So we refer to "other purposes." What are the other purposes? Thank you.

Kurt Pritz: Hi, Kavouss. Well I'm particularly not looking forward to looking at the picture for obvious reasons. So you kind of asked two questions there I think, you know, who are the actors, right, the ICANN registrars, registries and third parties and then are there any other purposes? So I think the answer to those is that we've identified purposes associated with ICANN registrars and registries. We have – we haven't, you know, completely tied down yet but what we're aiming for I think is ensuring that all third party requirements and interests are met.

And then determining whether it requires, you know, a third party purpose to do that or not. So I think that's not an unsettled question. And then if you think about third parties they're kind of everybody, so I don't think there's any other persons there. And with purposes, you know, we went through the entire list of purposes and developed a current list we have. We collapsed a number of pups down into Purpose B and there's still some work to do there to ferret out the language of Purpose B and the actors there, I don't think that's quite settled yet either in order to address the interests of everybody sitting at the

table. And also, you know, address the compromise that we developed there so I think that list is more or less complete. Margie.

Margie Milam: Thank you, Kurt. This is Margie. Regarding additional work to follow up on, I thought we'd asked for ICANN – I think we wanted to explore the role that data elements are used in the ICANN security group, so I think that's also an additional ask to follow up on. And so perhaps we could add – go back to ICANN, maybe Dan or Trang to identify the different purposes that they use data for, just so we make sure we've covered it. I know we talked to Compliance but I don't think we fully explored that yet.

Kurt Pritz: Thanks very much, Margie. Good catch. And I note I'm not sure – we've reached out to ICANN specifically for that yet or – but it's in the plan so yes, so it was sent to ICANN on – okay. So that's underway so good catch and thank you very much.

Okay with that, let's – so I cannot overemphasize how important it is to finish these things. Thanks, Benedict. So can – let's get into the discussion on legal basis. So Caitlin is going to present for us on this as she was a member of the small team but I was too so I'll just give a brief introduction. And I want to say that, you know, first of all I found many of these small teams to be surprisingly effective. And second, I think you know, this team worked through, you know, worked through the definitions of legal basis and got a firm understanding of which contractual relationships we were talking about and how it worked and had, to my mind, pretty sophisticated discussions about how legal bases are determined.

You know, it was you know, Thomas kind of led the discussion but Marc Anderson took a leadership role, you know, Ashley was in there, Margie, Lindsay, gosh, who else? Milton, Ayden, and Collin. So they worked through several of the purposes and got to an agreement in that small team regarding what the legal – the best, you know, as you remember, there's often a smorgasbord of choices, right? So, you know, the best legal basis. And then

following that for the few remaining purposes that weren't addressed by the small group had a couple meeting with Thomas and some others afterwards to get an understanding of that and then, you know, extended that reasoning out to the rest of the purposes.

So, you know, Caitlin is going to take us through the detail and the reasoning and then a final table of where we sit. But I think you know, at the end we're – we kind of have a good table of legal basis with which we can go forward in the draft document. So the goal of this is to – for us to bite off on that with the understanding that, you know, things might change and we might, based on occurrences outside of this group, decide to change what those legal bases are.

So with that I'm going to turn it over to Caitlin and thank her very much for being the reporter of this effort but also contributing to it with her knowledge and questions, so go ahead, Caitlin.

Caitlin Tubergen: Thank you, Kurt. This is Caitlin Tubergen from ICANN Org for the transcript. And Kurt did a good job teeing this up. I won't go through all of the background again. But some of you may remember that I think it was on Tuesday or possibly Wednesday, that Thomas walked the group through a lawful basis test which is included in this document. And after Thomas had walked us through that test, there were – there still appeared to be a bit of confusion particularly in reference to Article 6.1(b) of the GDPR and specifically how to determine if something is necessary for the performance of the contract.

So after going through that test and hearing some of the confusion, the staff support team thought it might be helpful to provide an additional non-ICANN example that might help explain what is necessary for performance of a contract. And on Page 2 of this document, we provided an example from the UK Data Commissioner's Office. And in short what they said is the

processing must be necessary to deliver your side of the contract with this particular person.

If the processing is only necessary to maintain your business model more generally, the lawful basis will not apply and you should consider another lawful basis. So the specific example that they gave is when a data subject makes an online purchase, a data controller processes the address of the individual in order to deliver the goods that the data subject ordered. This is necessary in order to perform the contract so the legal basis is Article 6.1(b).

However, the profiling of an individual's interests and preferences based on items purchased is not necessary for the performance of the contract and the controller cannot rely on Article 6.1(b) as the lawful basis for this processing. Even if this type of targeted advertising is a useful part of your customer relationship and is a necessary part of your business model, it is not necessary to perform the contract itself and so the legal basis for such collection and use would not be Article 6.1(b) but maybe the controller could rely on Article 6.1(f) or 6.1(a).

So in using that test coupled with Thomas's test, we went through the purposes that the group was working through at the face to face. So on Page 3 of this document we started with Purpose A, and I will note that for these examples the purposes highlighted in blue are purposes that the small group came to agreement on whereas the orange-highlighted purposes are ones that we populated as the leadership team but were not reviewed by the group.

So to begin, as Thomas's test indicates, the first part of determining a lawful basis is to identify the processing activity. So for Purpose A, which is to establish the rights of a registered name holder in a registered name, and ensuring the registered name holder may exercise its rights in respect of the name, the first processing activity would be collecting registrant data to allocate a string to a registrant.

And the small group agreed that the responsible parties are ICANN, registries, and registrars as joint controllers. And for this processing activity, again which is collecting the registrant data, the lawful basis would be 6.1(b) because it is necessary to collect the registrant data to allocate a string to a registrant. Without collecting that registrant data, the contracted party has no way of tracing the string back to the registrant and is therefore unable to deliver its side of the contract without it.

So another processing activity for establishing the rights of a registered name holder and a registered name is transmission of registration data from the registrar to the registry and again, that's ICANN, registrars and registries, are joint controllers so they're the responsible parties. And this is, again, a 6.1(b) purposes because purpose because transmission of at least minimal registration data from the registrar to the registry is necessary to allocate the string to the registrant and deliver the contract.

You'll also note that there's a 6.1(f) purpose here and the group had discussed that for additional registration data which is not necessary to technically allocate a string to a registrant, there might be a 6.1(f) purpose because there may be a legitimate interest in enabling registries to perform checks on patterns of abusive behavior.

So moving onto Purpose B – and, Alex, I see that your hand is raised but I'd like to get through all of this as quickly as possible and then open up for the floor for questions and concerns. Thanks, Alex. So as I noted, Purpose B is highlighted in orange so the group did not get to this purpose. However, we had the purpose as provide for a lawful disclosure of registration data to third parties with legitimate interests to data that is already collected.

So the associating processing activity would be disclosure of nonpublic already-collected Whois data to third parties. In the responsible party we currently have registries and registrars as the controllers because I believe

that's what the group tentatively agreed to on Wednesday afternoon. And then for lawful basis, this would be a 6.1(f) because although there may be a legitimate interest to disclosing nonpublic data to third parties, this disclosure is not technically necessary to perform the registration contract between the registrant and registrar. And again, we did note that if there is a 6.1(f) lawful basis here, the requisite balancing test would still need to be performed.

So moving on to Purpose B, which is to enable communication or notification to the registered name holder, the processing activity here would be collection of registration data for contactability purposes and the responsible parties, again, are ICANN, registries and registrars as joint controllers. And the lawful basis would be 6.1(b) because it is necessary to collect registrant data so that the registrar, for example, can contact the registrant in the event a communication is necessary to maintain the operations.

Moving onto Purpose B, which is escrow, the processing activity here is collection of registration data for escrow. Here the responsible parties are ICANN as the sole controller and registries and registrars are processors. The lawful basis here would be 6.1(f) because although there is likely a legitimate interest in providing mechanisms for safeguarding registration data, it is not technically necessary to collect this data in order to perform the registration contract.

The second processing activity here would be transmission of registration data to the escrow agent. And again, the responsible parties are ICANN as the sole controller and registries and registrars as processors. And for the same reason this would likely be a 6.1(f) lawful basis because transmission of the data to the escrow agent is not necessary to perform the registration contract.

Purpose F is handling the contractual compliance monitoring request. And the associated processing activity are collection of registration data for compliance with ICANN contracts and transmission of registration data to

ICANN Org Compliance. Again, this is highlighted in orange because the team did not agree to this one. But for both of those processing activities it's likely that ICANN is the controller and registries and registrars are the processors, so those are the responsible parties. And the lawful basis is likely 6.1(f) because collection and transmission of the data is not technically necessary to perform the registration contract, however, there's likely a legitimate interest here.

Moving on, and I'm almost done so thank you for bearing with me. Purpose M which is the coordination and development – coordinate the development and implementation of policies for disputes regarding the registration of domain names. So the processing activity would be collection of registration data to implement the UDRP, URS and other policies. The responsible party is ICANN as the controller and registries and registrars are processors, and that would be a 6.1(b) lawful basis.

Similarly, transmission of registration data from registrar to registry in this instance would be ICANN, registrar and registries as joint controllers with a 6.1(b) purpose. And lastly, the transmission of registration data to the dispute resolution provider where ICANN would be the controller and registries and registrars are processors, that's likely a 6.1(f).

And last but not least, we have Purpose N, which was enabling validation of registered name holder fulfillment of registration policy eligibility criteria which is Workbook N. And the associated processing activity is collecting specific data for eligibility requirements. The responsible parties would be ICANN and registries as joint controllers and registrars as processors. And the small group agreed that the lawful basis for eligibility requirements would be a 6.1(b) purpose for registries that have special eligibility requirements because it's necessary to collect that data to confirm the registrant meets the requirements and therefore the string can be allocated accordingly.

However, for registries that do not have special eligibility requirements, it might be a 6.1(f) because it's not technically necessary to collect that additional information to perform the contract.

We also included Thomas's lawful basis test, which Thomas very generously developed and walked the group through again on Tuesday and Wednesday. And the last page is just a consolidated lawful basis table which doesn't include the rationale but shows all of the identified processing activities as well as the responsible parties and the lawful basis that was identified.

So with that I will stop talking. I did want to note that when the small group met the test that Thomas had used to go around the room with the small group was if anyone is in violent disagreement with the conclusion that the small group made, we invited them to speak and give their reasoning, so perhaps we can use that same test now if anyone is in violent disagreement of anything that I've walked us through. Please feel free to identify any questions and concerns.

So with that I will turn the mic back over to Kurt to manage the queue.

Kurt Pritz: That was a very nice job, Caitlin. Thank you so much. And if it's helpful to you, scroll down to the left where it says 10 of 11, but scroll down to the last page and, you know, you'll have to blow it up to full size but there's a summary chart. So that would essentially become part of the initial report with the justifications and rationale behind it. So let's go to the queue. Alex, you're first. Well it looks like we're in alphabetical order, that's – well not quite, never mind, I take it back. Go ahead, Alex.

Alex Deacon: Thanks, Kurt. Can you guys hear me all right?

Kurt Pritz: Yes we can.

Alex Deacon: I have a bunch of questions on this, mostly just to understand better. Let's see, where should I start? I think this is helpful and I think those who worked on the small subgroup to do this, most of my questions I think have to do with the wording here and why don't I just ask a high level question first? So for example, the thing that occurs to me when reading Purpose A, which is I note in blue, is the lawful basis rationale for the collection processing activity. It says, "Without collecting minimal registrant data, the contracted party has no way of tracing the string back to the registrant and is not able to deliver its side of the contract."

Are we talking about the data that the registrars need to collect for them kind of to do business or are we talking about data that will end up in the Whois? Because it occurred to me that the registrar could collect this data and it doesn't need Whois to be able to tracking – well it doesn't – it has the information it already needs to communicate and – with the registered name holder. But placing it in a Whois makes it available to others. So I guess I'm just trying to clarify kind of what the focus of the rationale under this lawful basis is. Is it to justify data that's in the Whois or is it broader than that? Is it data that's collected for non Whois purposes? I guess I'll hopefully that was clear, but that was my kind of first high level question.

Kurt Pritz: So I think it's – yes so I think it's data that's needed to be collected in order to make the domain resolve and for registrars to provide the service they do regardless of where it is. So I think we want to focus – for this purpose we want to – I don't think the legal basis would change depending on the answer to that question. So it's the data that's necessary to provide the service whether it shows up somewhere else or it shows up in Whois. I don't know if that's helpful or not but why don't you go onto your other questions and then, you know, we'll ask Thomas to answer these other things in aggregate.

Alex Deacon: You know, I haven't had a lot of time to review this; it came in late yesterday so maybe what I just need to do is digest this some more. And why don't I just pass it onto the next question and I'll chime in later if necessary.

Kurt Pritz: All right. Thanks very much, Alex. Alan Greenberg.

Alan Greenberg: Thank you very much. I'd like to look a Purpose C. What shows here is discussion of collection of the data to enable communication related to the technical and administrative data to enable communication. And it says the lawful purpose is B, so that the registrar can communicate with them. But the main purpose that we have these elements is not so the registrar can communicate with them, but other parties.

And I don't understand why we are ignoring the distribution of this information, the provision of this information to other parties. It's not listed anywhere else in the purposes, and yet it's a processing activity which is essential to ensuring that the domain name can be operable. So – and I would have thought in that case it falls under F.

So I'm not quite sure why we're limiting it to the collection of data so that the registrar can access it without looking at the second part which in fact is the most common usage.

Kurt Pritz: Okay, Alan. So what you're proposing is that a second processing activity be included below here that includes how that data is used either by registrars or importantly by third parties, that would be a 6.1(f). I think we agreed that 6.1(b) is the stronger lawful basis so – and we should employ it wherever we can. And so that 6.1(b) provides a good basis for us collecting this data but you're suggesting that we add another processing activity.

((Crosstalk))

Alan Greenberg: Well I'm suggesting that I think we're obliged to cover all the processing activities somewhere and I don't see that processing activity of making it available – of distributing it to other third parties. So based on my understanding we have to cover it somewhere; we can't just use a purpose

for it. I mean, each of these items we're talking in many cases we're talking about the same data and so this is a processing activity that I think we have to be able to justify and I don't see it showing up anywhere so I'm a little bit confused as was the breakout group that looked at this whether we're looking just at the collection of it or ultimately the you know, the real purpose that we – why we are collecting it for that purpose. Sorry to be redundant.

Kurt Pritz: That's okay, you're talking to me; I'm professionally redundant. So I do think it's captured under Purpose B but I don't – I don't have, you know, we'll leave it to the group but we can put this under Purpose C too as a 6.1(f) processing activity I think.

Alan Greenberg: Yes, I mean, in my mind it falls out of adding the processing activity of making it available to third parties. So...

Kurt Pritz: Okay. Yes, I see, okay. So let's create that in the draft. Amr.

Amr Elsadr: Thanks, Kurt. This is Amr. First, just wanted to congratulate all of you on work really well done at the face to face in LA. I had the opportunity to listen to the recordings of that meeting and seriously you guys did a fantastic job so well done.

In terms of my question here right now, mine is sort of similar to what Alex was referring to. You know, processing necessary for a contract in itself might be slightly broader than what we need to be doing here on this EPDP because as Alex mentioned, there may be some data elements that need to be processed in terms – in order for the contract to be met with – I mean, a contract to which a data subject is a party can be met, but I'm not sure all of it is required to be included in the RDDS Whois.

And so I wonder if this distinction needs to be made in terms of some of the purposes we have listed here. And one example that comes to mind is Purpose N, which is very specific to Specification 13 and brand registries. So

a registrant could register a domain name under a brand gTLD and the registry operator operating this TLD could fulfill their contractual obligations with ICANN and with other parties without actually including some – the data that, you know, the distinctive data for this special type of gTLD in the RDDS but could have its own internal processes to make sure that, you know, the registration is being done as it is meant to be.

And, you know, so for example in the case of Spec 13 you would need a registered name holder that is either a subsidiary or an affiliate to the brand holder. But I'm not sure that that specification requires any additional data elements to be collected in terms of being included in the RDDS. So in a sense, yes it is registration data because the registrant or the prospective registrant would need to submit a certain information to confirm his or her eligibility to register a domain name under that TLD but that is, to me, a separate process than what is required by contract to be included in the RDDS eventually.

And that is really the scope of the work we're supposed to be addressing. So I'm wondering if this distinction has been made and maybe I missed it and if not, maybe I'm just totally off on this and need to better educate myself on why it's a nonissue.

Another issue I had was with Purpose M, again, I'm not sure why the UDRP and URS are being grouped with the PICDRP and the, you know, the post delegation dispute resolution process. And the RDDRP, which I'm not even sure I know what it is, but yes, so the UDRP and URS are obvious dispute resolution processes, I see here where registrant data, you know, data that is included in the registration data needs to be processed one way or another to go through the process. But I'm not sure the same applies to the PICDRP and PDDRP. And I don't know about the RDDRP. So I just wanted to mention those and sort of gauge the rest of the EPDP team on their thoughts on this. Thanks.

Kurt Pritz: Maybe someone from the Registry side could answer Amr's question about Purpose N which we included amongst our purpose in the face to face meeting and why that belongs or doesn't belong in our work. Does anybody from the Registry side...

Kristina Rosette: It's Kristina. I'm happy to speak to that if you'd like.

Kurt Pritz: Terrific.

Kristina Rosette: Okay. So first off, Purpose N isn't really intended to be limited just to Spec 13, although it certainly would include those. It would also include, for example, registry operators that have Spec 12 in their contract because they are community applications and Spec 12 identifies – covers the requirement of community registration policies. To the extent also that the registry operator may have entered into a voluntary PIC that would have registration policy eligibility requirements, it would cover those.

And finally, it would also cover those registry operators that for their own business models whether it's dotBank or dotPharmacy, or dotNYC or dotBot, or dotLaw, and we can go on and on, although actually dotPharmacy, never mind, that might be a 12, that for their own business purposes has adopted additional registration – have adopted registration policy eligibility requirements in connection with their TLD.

Some registry operators do in fact include those additional data elements in Whois, dotNYC, for example. However, not all do. However, the idea here is to ensure that the ultimate policy recommendations are covering the purpose – well I hate to use – the circumstances and the purposes through which those additional – through which additional data elements are collected even if they are not ultimately included in or published or disclosed through RDDS.

So I hope that answers your question...

((Crosstalk))

Amr Elsadr: Thanks.

Kristina Rosette: ...if not I'm happy to answer further.

Amr Elsadr: Yes, yes it does, Kristina. This is Amr again. And thanks for that. So am I correct in assuming that we haven't actually decided that these data elements do necessarily need to be included in the RDDS and then subject to any other policy recommendations this EPDP team comes up with? I think what you say makes a lot of sense and my apologies on, you know, not also including other types of registry operators apart from brand registries, what you said is absolutely true. I wasn't – not very familiar with the dotNYC model and what they do, but, yes, I just – this is just a question and I'm wondering maybe we could take this offline and could figure this out a little more, that way has more informed...

Kristina Rosette: Sure.

((Crosstalk))

Kristina Rosette: Sure, well it's my understanding and Kurt at all, feel free to jump in, it's my understanding that well I know that during the time I was at the face to face we didn't have an in depth discussion of Purpose N and I'm in the process of working with registrar counterparts to complete the worksheet, at which point I – which I'm hoping will be done today. And that my understanding is is that once that is completed and circulated that's the point at which we would have that conversation. So I'm happy to have it with you offline, but it's my understanding that we will be having it more broadly as a group in the next one or two meetings.

Kurt Pritz: Thanks very much, Kristina and thanks, Amr, for the question. I'm not sure we're settled on whether to include the other dispute resolution processes in

this. You know, to me they're existing dispute resolution processes where an independent DRP has to, you know, receive data and make some sort of adjudication. So the RRDRP, if I remember, is – has to do with registration restrictions, so community TLDs and making sure that community TLDs continue to comply with their registration restrictions.

So it requires data that is collected to be transmitted to a DRP so I think you know, to my mind it would fall under this. You know, they're lightly or never used so kind of off the radar but, you know, I think for completeness they should be here but it's not settled by the group. Kavouss.

Kavouss Arasteh: Yes, sometimes the discussions – on the dialogue bit and certain people that the one who asked for the floor forget what for he asked for the floor. I think that is something very uneasy to support. Kurt, you have not replied to my question, when you discuss given purposes, and you refer to other purposes it means that purposes which are different from those that are spoken. I understood that we're speaking on ICANN purpose or purposes, registry purposes, registrar purposes and possibly, if I'm not (unintelligible), third party purposes. So what we mean by other purposes, other than what? Other than these three or other than these four? This is first question. I need a clear reply.

Second, irrespective of this dialogue, I understand what you are doing mapping the Article 6(a) to (f) into the Purposes A, B, C, D until L or M. Am I right or I am not following the discussions? Thank you so clear answer to these two very clear chat questions. Thank you.

Kurt Pritz: So I hope I can answer your question. So the answer to your second question is you're correct, we are taking each purpose and deciding the legal bases for each data processing activity under that purpose. So the answer to your second question is yes. The answer to your first question is, during our meeting we identified one, two, three, four, five, six purposes out of the – out

of the temporary specification that we created, so we shrunk the number by combining several purposes into one into Purpose B.

We now have six purposes plus we've added the one Kristina just proposed that, well, we're proposing adding it, and which has to do with registries collecting data for specific registration restrictions and also one from Benedict that has to do with doing research so those are two additional purposes. So at the end of the day we would have eight. So if I've made vague reference to other purposes, other than those it was inadvertent.

Margie.

Margie Milam: Thank you, Kurt. This is Margie. I have several comments. Do you want me to run through them all together or pause after each one?

Kurt Pritz: I don't know. I got a pen so I can write them down.

Margie Milam: Okay. So thank you for putting this chart together, I think it really helps identify the different layers of processing and shows where there may be gaps. In Purpose A, I think we're missing a processing activity and that relates to – if this establishing the rights of the registered name holder, then it's basically responding to requests from the registered name holder, you know, related to Purpose A. And so I don't see the registered name holder as a third party, it's actually, you know, the registrant is actually a separate party that I think we never really got closure on so that's one issue.

In Purpose A I don't think that F is appropriate for the last one. Are we saying that it could be B and F and we're just listing both of them or – if that's the case then it's fine because I wasn't sure if that was talking about a different purpose. The reason why I'm raising it is I think the registries' interests in ensuring that they – that they're protecting the registry from security issues or abuse, you know, creating a safe platform, in my view, is a necessary part of the contract so I would lump that as a B.

Kurt Pritz: So I think – so I hate to be the answer to these questions, as far as your first question, I think the registered name holder is the data subject so once you identify someone as a data subject then they're not a third party, but I would defer to others to correct me on that. And then as far as the registry receiving data, this sort of just – so I don't disagree with what you said, and this parses the data between, you know, data that's necessary to perform the contract from those that – those data elements that are not. So Thomas, do you want to answer the second question? I got a secret message.

Terri Agnew: Thomas, this is Terri. I don't see where your microphone is active as of yet. And I don't see where you've joined on telephone only.

((Crosstalk))

Kurt Pritz: So I'm sorry, Thomas, I misunderstood...

Terri Agnew: ...audio.

Kurt Pritz: Yes. Yes, so I thought he had kind of volunteered for that. So we'll work to get you a better answer but my answer would be that some of the data collected by the registrar for this purpose is also required by the registry but some of it is not, so in some cases the registry acts essentially as a third party in this instance.

Margie Milam: And if I could follow up on – I think the confusion is that – my understanding is that a legal person may not necessarily be a data subject; those terms aren't necessarily interchangeable. So what I'm recommending is that we call out a different processing that relates to the registered name holder for this purpose, you know, in order to ensure that they're, you know, exercising their rights in relation to the registered name so that would be my suggestion there.

Kurt Pritz: Yes, so if you can take that up with Thomas or someone else, that's beyond the scope of my training.

Margie Milam: Okay.

((Crosstalk))

Kurt Pritz: What's your next question?

((Crosstalk))

Margie Milam: Yes, keep going? Okay.

Kurt Pritz: Yes.

Margie Milam: The next one is – and we talked about this in Los Angeles, but I really disagree with characterizing escrow as not necessary for the performance of the registration agreement. I think that that's a fundamental part of the service and in particular if you think about, you know, it's not the narrow purpose of delegating a string, it's registering the string in the context of the ICANN framework which is, you know, which sets a standard of security, you know, and technical requirements and things like that.

And so I feel that the escrow, in particular because it's actually protecting the registrant from a business failure is very much integral to the registration agreement. And so – and in fact I think it actually is referenced in the registration agreement with the registrant that the data will be sent to escrow. So I – like I said, I strongly object to that.

If we can't reach agreement on it being a B, performance of contract, then I want to also raise the issue that we talked about in Los Angeles, and at the BC we've thought about this since our meeting, we would like to make a recommendation that ICANN enter into a direct contract relationship with the

registrant so that we can have that direct relationship and the ability to be lawful under subpart B. And so that's something we'd like to put on the table and discuss more fully in this group.

And then I think that also comes into play in Purpose F, the contract compliance request. Again you have to think about this is registration part of, you know, registering a domain name in the context and the framework and the securities that's provided by the ICANN policy framework and the ICANN and it's the reason ICANN exists. And so Purpose F should also be, B. And again if we have disagreement on whether it's B or F we would like to discuss whether we could have a ICANN direct contact with the registrant so we clear up that miss, you know, misunderstanding or - and make it more clear.

And if you think about what, you know, what actually goes into registration agreement much of it comes directly from ICANN. It's just, you know, the way we set it up for the last whatever 20 years has been through an indirect relationship. So there's is no reason there could be a direct contract given that there's a fee that gets paid to ICANN. And so that's something that I think should be discussed.

And then so and then so the collection for the Purpose F, processing activity also has to include interactions with the complainant for the contractual compliance request. So for example I mean if the purpose actually says complaint submitted by registry operators, registrars and registered name holders and other Internet users and so there's we heard from (Maggie) there's a discussion that often takes place between the party that submitted the compliance complaint and ICANN. And so that's a processing activity that needs to be added to purpose F.

And then with Purpose M we have also need to add processing activity of providing the data to the party that is exercising their rights under the dispute resolution mechanism. So for example the trademark orders if they're going to file a UDRP or URS as they need to access the data in order to be able to

compare the complaint. So you, but you also need to add a processing activity in M that relates to the transmission of the registration data to the party that is going to file the complaint. And I think that's all I have for now.

Kurt Pritz: Thanks much. I'm going to, you know, we're going to have to take this offline but I want to take a shot at answering some of your questions. So, you know, with regard to escrow and also with compliance, you know, especially with escrow we had the longest discussion about that and whether that was 61B or 61F legal bases. And so and it was sort of a 60'40 discussion and centered around what would give us the best chance of success when presenting our case to a DPA or whoever we need to make the – to whomever we need to make the case.

And it really - so I would characterize it as is there another way to skin the cat? And so for example for example with data escrow that's one way and ICANN's determined it's the preferred way and it's written it into the contract. But (sans) that there's other things registrars could do rather than using an approved ICANN escrow provider and, you know, that would be geographical diversity or cross partnerships with other registers. You know, there might be other ways to escrow data with independent parties or other ways to safely escrow the data within one's own company.

And so given that there were other - the way I'd characterize it is because there's other ways to accomplish that goal the group thought that at the end when we're standing in front of a DPA and trying to defend this that the 61F would give us the best chance of success, because when you do that balancing I think, you know, you would agree that there's, you know, certainly a legitimate interest but a very strong one that outweighs other interest. And that's why we do that escrow. And I think that's, you know, I think the group characterize that as a easily winning argument and then and avoided the whole discussion we had of our small group about whether, you know, whether this was the only way to do this or not.

So it wasn't a concern about the relative importance of data escrow. It was how do we win the discussion when we're defending our policy at the end? So that was the discussion there for escrow. With compliance it wasn't such a deep discussion that, you know, we thought there's, you know, there's other ways to do that too. You know, you could, you know, I'm not advocating this but you could easily, you know, abolish compliance and everything would still work if there were – there are other means of testing whether, you know, you could abolish ICANN contractual compliance and if there are other ways of registrars demonstrating that they were complying with their contracts. So that, you know, to me that more clearly to the group anyway that more clearly fell under the rubric of there's several ways to do this so it's much easier to win that argument in front of the DPA.

And then I agree with you on I think, you know, we've had some back channel discussions on the DRP and whether that's a required activity, the transmission registration data to one of the dispute resolution providers for transmitting the data to the complainant. That's not an argument we had. You know, the way to win that is that's not a discussion we've had about whether to include that or not totally.

So it, you know, it would be a – it's for the group discussion and I - you know, we need to take this off-line in some way but, you know, you have to, you know, win that balancing test. So I mean, just squawk and - not said much - so not read the chat so I'm just looking in the chat for anything else.

So for me the, you know, the - I don't know how to pursue the discussion of ICANN agreements with registrants. I don't know what that would look like or how it would be implemented so that's a discussion to be had. Anyway so that's kind of my explanation. And what recommendation does anyone in the group have before taken this discussion forward in any way? Anybody from staff?

Kristina Rosette: Kurt it's Kristina. I'm next in the queue and was actually going to touch on that if I may.

Kurt Pritz: Perfect.

Kristina Rosette: Okay. Kristina Rosette, Registry Stakeholder Group although speaking for this particular point also on behalf of the register colleagues with whom I've consulted. I think this is a really, this is a really helpful way to lay this out visually and I think it has added - I think it just makes it a lot easier to understand. Having said that we have all really just seen this for the first time. So what we would like to do is take this back and have the opportunity to really take a deep dive into it and come back with comment before our next meeting. I know that (Tran) end has also made the same comment from the perspective of ICANN. And to the extent that during the interventions that have proceeded mine folks have suggested additional processing activities and/or changes in unlawful bases. Perhaps what we could all aim to do is input those all through red lines and have another review of this on Thursday. And I'm also mindful of the fact that we're halfway through the call and we still have some others substantive agenda items. So that's my suggestion for perhaps how we can move this forward. Thanks.

Kurt Pritz: So I certainly appreciate changes. I'd want to if you want to continue this discussion on - well so I'd anticipate you turning around the red lines in 24 hours or so before going to continue this discussion on Thursday. And I would reserve the right to a separate topic discussion meeting on this or resolving some other way if we can but I appreciate the offer for that. Mark?

Mark: Hi. Can everyone hear me?

Kurt Pritz: Yes we can.

Mark: Okay good. I never know from day to day whether I can be heard on this call or not. There's a lot going on on the call and in the chat and I just wanted to

comment on a few things. Kurt I think I heard you say about maybe abolishing compliance or something. I don't know, maybe I misunderstood that but that confused me. So I don't want to go back to that. I just want to make comments that what you were ripping on confused me.

Amr was saying something about you can mitigate liability by not breaking the law. I think that's, you know, flippant and him not very serious. Of course you can avoid liability by not breaking the law but since the law is not well-established at this point parties are very concerned that they could do things that, you know, certainly seem to be lawful but maybe would interpret it as not being lawful so that's not great.

Stephanie was asking about change in the contract structure so that there's a direct relationship between ICANN and the data subject. This is not anything new. It's been talked about before. It was talked about to some degree even last week. I don't - I wouldn't want that to be mischaracterized as it is in the chat as, you know, somehow taking away the data subjects rights. The data subjects' rights are enshrined in the law and there is no future contract structure that would, you know, survive muster if it broke the law. So I don't think we have to keep going back and forth to and don't break the law, yes we all understand don't break the law. I guess that's it for now sorry.

Kurt Pritz: Thanks Mark. I'll just say with regards to my comment I wasn't advocating abolishing compliance I was just stating that there was another way - if there's another way to accomplish the same goal then a legal basis of 61F is probably the more winning argument over 61B.

Mark: Okay.

Kurt Pritz: Yes Marika?

Marika Konings: Yes thanks there Kurt. This is Marika. I would really like to encourage everyone as well to click on the link that's included in the memo that takes

you to the UK Data Protection Commissioner's Web site that at least I think from the staff perspective really did a good job in trying to explain and provide very concrete examples on how to apply the 61B versus 61F and really take that to heart I think as you look at these examples. And what I also want to know that of course, you know, ideally the groups comes to agreement on all these lawful basis for all the different purposes and (unintelligible) I think activities. But of course, you know, you're heading for an initial report and, you know, it is possible there to call out for example in which cases there is not necessarily full consensus or where there may be a certain group or certain groups disagree with a certain designation and kind of call that out as a specific question where you made like a DPA input on.

So again I just want to put it in of course ideally you come to agreement on these but if not, you know, you can put a marker down and call it out in an initial report so that hopefully you will obtain some additional input that may help, you know, come to agreement based on what for example DPAs may be able to bring to the table or provide input on to facilitate making that determination.

Kurt Pritz: Thanks Marika. All right Stephanie go ahead. Stephanie did you take your hand down?

Stephanie Perrin: Sorry I took my hand down and forgot to unmute my mic. Stephanie Perrin for the record. I would just like to formally request one more time -- and I'll follow it up in writing -- that we engage the services of a neutral law firm that is expert in GDPR in compliance to help us because I feel like we are going in circles. Different parties are bringing forward arguments that their lawyer would like us to engage in here and we need some kind of mutual arbiter.

With all due respect to everybody around this table I'm not a data protection lawyer. When I want to understand something like the complex matter of ICANN controllership I consult legal scholars. And I have done that for approximately four years. So I'm pretty confident that we ICANN does not

need a contractual relationship with a registrant in order for it to be found to be a controller. It is the policy controller for all of this. And I really think it is high time that we faced up to the reality because we can put things in here but we will be fighting about it downstream so let's at least bring in an expert and to help us with this. Thank you.

Kurt Pritz: Mark do you have something new to say?

Mark: Yes I do thanks. This is Mark. Hey Stephanie, thanks for saying that. I agree it does seem like we do best when we have some sort of a neutral third-party helping us because we all do have our wants and needs and opinions come forth as if they are authoritative.

Regarding the situation with ICANN where ICANN does or does not need such a thing isn't that the crux of all this discussion though that without such a structure there are certain things that ICANN cannot do, things that ICANN historically has done and which its bylaws and mission seem (dicontinence) but which are no longer viable, you know, under the new legal structure. It seems to me that that is the whole challenge that we have is that the old legal structure if it worked before it doesn't work now and that, you know, considering a new legal structure seems just as reasonable as any other thing put forward.

Kurt Pritz: Go ahead (Diane).

(Diane): Sure. Thank you Kurt. Very well spoken Mark. Thank you for that and just riding on that same message, you know, the thing that I thought was so phenomenally great about the face to face meeting is that we all came together in a, in such a collective and high level intellectual way to understand various commonalities and basic interests of everyone that is shared. And that's helping ICANN come up with a framework to be able to move forward in a compliant matter and achieving the goals of everyone here. And so the fulfillment obviously of the DDP.

And so we really had a lot of discussion around and ICANN was there and Goran and making his blog and asking the questions please provide me with recommendations. We're at the juncture where that's what we need and we're looking to this group to do that.

And through the course of our discussions we discussed the fact that we, Stephanie myself, (Milton) a number of us were all very much aligned in the fact that we want to in a compliant manner help suggest these options for ICANN whether it be a direct contractual relationship which will alleviate liability concerns and also address making sure that ICANN is taking the necessary contractual responsibility and satisfies the GDPR under 6B without as much question and that the mission and scope of that mission is clear rather than people guessing around it.

So there's a lot of different, there's a lot of potential here for us to work together and whether we do that as (Thomas) has suggested by going into smaller groups to look to hire an outside lawyer or use resources to come up with intelligent recommendations at the end of this for ICANN to actually have a functioning, you know, solid legal and equally compliant ideas and frameworks within which to go forward. And I think that should be our goal.

It's great to fill out these charts. It's great to make sure that we're trying to do everything we can do to work within the construct of what we have but I think everybody is recognizing that in fact it might not any longer be plausible to be able to be totally compliant and make that happen and ICANN is asking for more complex recommendations.

Kurt Pritz: Thanks (Diane). So those were really thoughtful comments. I think we're kind of far up field from the legal basis of the discussion so we'll, you know, I'll create a separate discussion group for this. But I think, you know, I think, you know, we need to understand what we want to what we would want to achieve with these additional contracts and see if they've - and see what we

want to achieve with these additional contracts and see if that's the way it's done or if other's suggest that the existing duties under B under our a joint controller or controller role would satisfy that.

So I want to separate that discussion from this legal basis one. And where I understand we are on this legal basis one is that we're going to get some additional comments from the Registry Stakeholder group in the next 24 hours. We've got a couple of edits, a couple recommendations based on the discussion in this room that we'll put up and then when we see that we'll figure out the best way for taking this discussion forward because, you know, my sense is, is that we are, you know, we're in good enough land for putting up a coherent, intelligent table for a legal basis for each one of our purposes. And with some modifications we'll be able to go forward with this and have it done which is a pretty, it will be a nice addition to the initial report.

So I have - we have a couple things left to do and not a lot of time sadly. So I'd like to talk about two things. One is Purpose C and one is the schedule for meetings for going forward. So we're going to spend a short period of time on Purpose C which has to do with communicating with the registrants and technical administrative context, content, contacts also.

As I recall that discussion the data matrix here in miniaturized form because it had some comments alongside it was pretty well fleshed out. There's some redlines here. And, you know, I'm going to ask Alan Greenberg to talk to this because as I recall the outstanding issue really had to do with what to do in the case where say a technical contact was not there or blank that those seeking to reach the registrant through the technical contact would have some way of reaching them. So I know that was one of the issues but Alan if you could talk for a few minutes to this and...

Alan Greenberg: Thank...

((Crosstalk))

Kurt Pritz: ...because you were one of the members of the small group that would be terrific.

Alan Greenberg: Thank you Kurt. I accepted to speak on this at the beginning of the meeting. We have since spent a significant part of the meeting discussing this issue in the chat a little bit on verbally and much in the chat. So anything I say at this point is somewhat anticlimactic and has been disagreed with by at least somebody in the chat. So I'm not quite sure how – what we're going to accomplish but I will certainly discuss what we talked about in the group.

The purpose is enabling communications with the technical and administrative contacts. Within the group when we looked at purpose the - and the lawful rationale for the purpose we were focusing to a fair amount on the - making the information available and therefore that fell under 61F. There was also the belief that we were looking at the collection and therefore that was clearly 61B. These elements - I'll use the word optional but I'll describe it and what I mean by optional moment were deemed by some to be optional and therefore could - we could also be including 6 1A.

The mission, the- there in terms of relevance to ICANN bylaws it was felt that the ability to contract the registrant was directly related to ensuring a stable DNS. And so that - there was not a lot of controversy in the group about that. The processing as we said, you know, in the earlier discussion we said the processing was just collecting but clearly at the time we were talking about it, making the information available one way or another was also certainly included. On the other hand when we talked about transmission of data we said no, there is no requirement to transmit data and I'm not quite sure how we got to that conclusion if one of the possible uses is make it available to other – to third parties. So I – I'm looking at the workbook right now and I'm trying to remember how we got to that position and to be honest I cannot recall that.

The whole issue circles around whether this information can be made available and under what conditions. And there was a strong feeling that for many registrants and certainly many natural person registrants there is no separate technical administrative contact and we had a significant discussion on whether that means that the information should be optional. And I think the conclusion we came to is it is fine if it's optional as long as it defaults to the registrant data either in terms of filling, when it's filled in it defaults or at a later point when we talk about access if when we provide access to it - the registrant data replaces it if there is no separate technical or administrative data.

The rationale is that if we end up in access rules with some third party perhaps being access only the technical contact and not having access to any other fields then it's important that, that not be returned blank. So if it wasn't provided and the third party only has access to a specific field then we must provide some content there that is the registrant access. And I think that's the sum of where we got to. We didn't quite come to closure on whether the legal purposes were under 1B or 1F. And of course the small group met after we discussed this so we didn't have the benefit of their discussion. And we didn't quite come to closure on how - what whether we should prescribe exactly how the field is handled if indeed the registrant chooses not to provide that information uniquely, that unique information in those fields.

And I'm not sure I can elaborate more than that. As I say, we have spent a good part of this call talking about this in the chat and clearly there's not uniform understanding in the group of either why these fields are there or how we're going to handle them if they're there. Thank you.

Kurt Pritz: Thanks Alan. That was well done on short notice. I'm going to call on Mark in a second but I'd like maybe someone from the registrars to comment if you have time to think about it about if the technical contact field is left blank

whether it's possible to return the registered name holder name and information? Mark go ahead.

Mark: Thanks Kurt. This is Mark. Yes LNG that was a great summary. That's exactly the way I remember the conversation going. LMW in the chat, you touch on an important reason why we need to collect the consent on this. So if you decide, if you elect to take the optional path and provide a different contact for technical or admin, a contact that is different from a registered name holder we have to collect the consent from that party.

We're not collecting the consents from the registered name holder to give the data. We're collecting the consent from that contact to use the data. And perhaps you remember my joke that if I'm the registered name holder I could put George Clooney's email address in there and say that he is my admin technical contact. And that would not be his consent of course so during verification and validation you would have to collect that consent. That's how that would work.

Kurt Pritz: Or that you would have a legitimate interest that outweighed the rights of the parties. And I think, you know, I read Stephanie's comment about how – oh go ahead – about how consent is a complicated process. Alan go ahead.

Alan Greenberg: Thank you. I just have to say no to you on that one Kurt there. I don't agree with you that one, can't have a legitimate purpose. You're making something optional whereby basing that as adoption on everything (unintelligible) that it is not necessary for you to provide whatever services (unintelligible). So you're defeating basically every single purpose there except consent or other ones which we don't have access to.

But specifically consent (unintelligible) because you're saying you don't have to give a (unintelligible). It's not necessary for them to provide this service to you. However (unintelligible) registrants themselves say hey, I want to give you this data because I think it will be helpful for me. Having consent is the

only way you can process that, so we can't mix those two. If it's optional it's only by consent and I'm happy to hear people who disagree with me on that one but the way I see that on my brain it's a very, very clear cut black and white line there.

Kurt Pritz: Thanks Alan. Can anyone from the registrar's comment on if the technical contact field is left blank whether a query could return the registered name holder? Lindsay Hamilton-Reid?

Lindsay Hamilton-Reid: Hi. This is Lindsay Hamilton-Reid for the record.

Kurt Pritz: Lindsay Hamilton-Reid you're not quite as loud as I think...

Lindsay Hamilton-Reid: (Unintelligible).

Kurt Pritz: ...you'd want to be. Yes if you could get a little closer to the microphone that'd be great.

Lindsay Hamilton-Reid: Okay great. This answers the (unintelligible) registrars and if there's no reason to collect that data then that data (unintelligible) in its path. We've got the registered name holder so why (unintelligible) put that in. I have to say (unintelligible) on my behalf and in perhaps the country (unintelligible) work for. There are very few people have filled in a technical or admin contacts just in their own (unintelligible). So to me, I'm not sure what the reasons are for having that. Surely if something is going to go wrong you want to contact the registered name holder. We shouldn't need to have that.

The other issue we have as well is while these people are the registered name holder would be giving these other contact details that we know don't have consent to do that. We can't guarantee that. Can you hear me fine now? I'm not sure you can hear me...

Kurt Pritz: You're a little bit faint but I've got, yes, I've got a volume control on my laptop so I can hear you.

Lindsay Hamilton-Reid: Okay I'll try and (unintelligible) a bit more. But basically yes, there just (unintelligible) no reason to collect that and particularly in view of that (unintelligible) decision again there's no reason to collect that. Thank you.

Kurt Pritz: Thanks Lindsay Hamilton-Reid. I want to close off the queue after Emily Taylor so we have some time at the end to talk about our plan going forward. Alan?

Alan Greenberg: Thank you. I couldn't hear everything Lindsay Hamilton-Reid was saying the volume was not an issue but it was rather muffled and I couldn't quite make it all out so I may not be addressing anything or everything she said. But the question was asked in the chat of why do we need this information if we have the registrant, the registered name holder? And the answer in my mind is simple that for some registered name holders they may choose not to have unique information but some might well choose to have unique information. As a simple example if I have all, I may be the registered name holder of a name but I may be delegating all of the technical work to a Web service girl, and I'm saying contact them if it's not working. I don't know anything about making it work.

If I'm a large corporation and unfortunately although GDPR doesn't apply to legal persons ICANN's current temporary spec does, then I may well have a very different contact. The registered name holder may be an office, you know, your legal office for instance or your intellectual property office. They're not the ones that are there 24 hours a day seven days a week to fix a technical problem. So I think it's rather obvious why there may be a need for different contacts so I'm not quite sure why we're having that debate. Thank you.

Kurt Pritz: Thanks Alan. Emily Taylor?

Emily Taylor: Emily Taylor for the record. Just to support Lindsay Hamilton-Reid's remarks, in practice the technical contacts are often are all almost always duplicates of other contacts. If there's a technical issue with a domain name there are two possible courses. One is contact the registrant and one is contact the registrar. Both of those details are in separate fields.

And of course I this was, you know, my own personal view is that these ancillary fields admin technical billing are all sort of relic form the old Whois format which is, you know, desired way back when in the 80s before there was really a hard concept of a domain name registrant having rights and responsibilities and before there was ever such a thing as a registrar. The market has moved on considerably and the Whois fields has not kept up to date. It's way past the time where we have a good look at these fields and actually relegate some of them to the substitute then should get rid of them entirely. Thanks.

Kurt Pritz: So even for those customers that ask for such a field you would be for eliminating them and eliminating the opportunity for registrar to offer that product?

Emily Taylor: If I may just respond...

Kurt Pritz: Yes.

Emily Taylor: ...to your question Kurt I think that the, you know, it's a bit like the whole Whois environment, a real classic case of the database that has failed to keep pace with time. And so we end up using these schedule fields for purposes that they were never intended for. There is no way in the current data set for example, to be able to identify a seller, now resellers are a large part of today's market. There are all sorts of changes that one would make to the data set if we were starting from a blank page. But, you know, where you have -- and I'm just sort of highlighting a point made by James Bladel in the

chat -- more than 95% certification then you're really driving the rule through exceptions by continuing with these out of date and useless fields. Thank you.

Terri Agnew: Kurt this is Terri. If you're speaking (unintelligible)...

Kurt Pritz: Yes, yes, yes, got it, got it, got it, got it. I got it and I was kind of silent in reading the chat anyway so I think, you know, I think there's a pointed question here for the mail list that I want to sort of point up. Go ahead James Bladel.

James Bladel: Thanks Kurt, James Bladel speaking. And is just trying to catch up with the chat that's kind of flying along in response to Emily Taylor's intervention. You know, as far as statistics I don't have anything current. As of last January we had a number of large registrars run the statistics where contact in Whois and found that retail registrars for example like GoDaddy were seeing over 90%, 95% duplication across all contact whereas reseller or wholesale oriented registrars like Tucows -- I'll put them on the spot -- the number was a little bit lower probably in the high 70s to low 80s and, you know, could vary regionally and by business model. So but I think the takeaway was a lot of this was a duplication and I think and I'm probably going to misstate this but it doesn't really, you know, align with the principle of data minimization and really puts registries and registers to (unintelligible) manage and extensive list of, you know, of contacts. And I think we also could propose to (Ashley)'s point we could propose a number of technical and operational alternatives that would restore control over all of the contacts back to the registrant so that they aren't necessarily living in the Whois or RDS system but they're living in the DNS themselves as part of the DNS records. So that was just to answer some of the questions in the chat but also a question about the break, the legal and natural (unintelligible), again very, very difficult to say with a high degree of confidence. You know, some are clearly individual, some are clearly organizations but there's a very large gap in the middle where it's ambiguous. And that varies as well across a business models and regions.

So unfortunately Mark I don't have a (unintelligible) on that one. Hopefully that helps respond to some of the questions of the chat. Thanks.

Kurt Pritz: Alan this is the last comment. Thank you James Bladel.

Alan Greenberg: Thank you very much. There are clearly all sorts of ways we can address the need. And yes we could use the text field. Almost any major change like that is going to take a long time to propagate and a long time to get everything changed. And so I really think making changes like that just for the purpose of making a change is a make work activity. I guess I don't understand from either the legal issue of data minimization or anything else why making it an optional field is problematic, I really don't understand why – what the issue is since no one is obliging anyone to do anything. Thank you.

Kurt Pritz: Thanks Alan. And I'm really sorry I have to cut this short so I'll give some thought to how to – go ahead Stephanie.

Stephanie Perrin: Thanks, Stephanie Perrin. I'm just trying to answer Alan's question. It is because under GDPR you still have to explain any collection of data. You can't just say, "Oh this is optional therefore it's all on you." you have to make sure they understand in a way that we call it informed consent. You can't let them accidentally agree to provide personal data. So that's where the rub is, it's simple.

Kurt Pritz: I think Alan could probably easily write a statement as to why it's beneficial for registrants to have an option to provide this information in the ten or so percent of the cases where they want to. So Alan why don't you write that and that's not precluding other solutions to this but your statement would identify the need.

So I'm going to – can it's really important that we have a conversation about our go forward plan. So could put up the schedule for our discussion going

forward? Can someone, Marika can someone from staff take us through the schedule going forward? And it's quite a bit about five minutes or so?

Marika Konings: Sure. This is Marika. So this document was shared yesterday on the mailing list so hopefully you at least had an opportunity to open it and scroll through it. So what staff and the leadership team has tried to do based on a review of the charter questions and the work that's already ongoing in relation to the data elements and workgroups as well as, you know, some outstanding items in relation to the data elements of workbooks we basically came up with a list of topics that, you know, need further airtime or need airtime because they haven't been considered in detail yet and try to kind of map that across the meetings that are remaining between here and at ICANN, the ICANN meeting in Barcelona but also the meetings that are planned there.

And as you may recall I think during the – at the end of the face to face session in Los Angeles we had some discussion around, you know, how we could maybe modify or adapt it as a meeting sequence. And I think someone suggested there that, you know, it might be helpful to actually, you know, add some kind of small team meetings throughout the plenary sessions to allow for discussion and kind of preparation of some of the topics before these would come to the plenary meeting and again similar to how some of these topics were prepared in the face to face meeting in Los Angeles.

So what you basically see here is kind of a breakdown across those different topics and the different meetings, you know, across the different dates that we still have available to us going forward. So I think you see here the first meeting of course is today's meeting and we've mapped out there the topics that are to be discussed or have been discussed today. Then the proposal will be to have first a small team labeled here as this number one as the idea that the composition of these groups are ideally not the same people so that the work is spread out but at the same time we hope that, you know, these don't become, you know, meetings of the whole. So I think that the idea would be that there would be, you know, one representative from each group

to keep those groups manageable but still at the same time have, you know, broad representation across the different communities. So again, you know, prepare and discuss those topics.

So the idea would be that a small team would start a conversation tomorrow around, you know, legal versus natural person. And I think that has already come up. I think someone needs to mute, that has already come up in some of the conversations today. And again there is some input that is available the DSIs as well as Appendix A Google doc that we had up for a while. So that's some information that staff can pull together to kick off that conversation.

And again the whole idea is that, that group, you know, discusses and or works through some of these items, ideally, you know, coming down prepared with a kind of proposed approach for how to discuss that topic in the plenary. And of course the specific recommendations would come out of a small team meetings that would be even better. But again I think the objective at this stage is really to prepare the topic for conversation and set it up in such a way that the group is able to come to some kind of agreement or response to the charter questions.

So Thursday we would have our next plenary session. And as Kurt noted there are a couple of outstanding action items. And so the idea would be to follow-up on those that make progress on the different data element workbooks for those where either for the work needed to be done or, you know, some new ones are being developed.

And again another small team meeting proposed for Friday and specifically looking at, you know, the geographic aspects of the questions related to that so that's the charter questions A - H sorry. Then we move will move into next week Tuesday looking at again some of the questions in the charter that don't seem to have been specifically addressed at this stage so these have been called out. And again should anyone of course want to start conversations on those on the list that is of course welcomed as well.

There will be another small team meeting next Wednesday starting or prepare the further conversation on the Question J in relation to a temporary specification and then reasonable access and those related questions. Again quite a bit of conversation has already happened in that regard but the idea is that we need to try that focus on what the charter question is asking and the responses that the group can prepare in that regard.

Next Thursday the plenary session will be focused on Purpose B. And as we noted as well there are some homework that is being prepared in that regard and would have the plenary session on Tuesday 15th of October dedicated to any small team topics that are, that need some airtime with the plenary even because they have either because they have specific questions or specific recommendations that they may want to put forward. And then assuming the most people will start traveling on Wednesday or Thursday our next get together would basically be in Barcelona on the face to face and full day session on Saturday where again it's the expectation that most of the time may need to be dedicated to charter questions H, J and B. And of course any outstanding issues that maybe the result of the work in relation to the data elements workbooks.

As Kurt noted as well there are a number of other sessions scheduled throughout the week and principal to Sunday's session has been assigned as allowing the group to prepare for the high interest topics session which takes place on Monday. And then there are two more set of session scheduled for Wednesday and Thursday. And we've included here a list of other questions that are outstanding from the charter.

Again those don't necessarily seem to rise to the level of some of the other issues, so the hope is that maybe some conversation could start on that, you know, prior to the meeting to potentially come to agreement or have some recommendations that could be included in the initial report. And then of course, you know, the last day hopefully being able to wrap up any

outstanding items as, you know, shortly after the meeting. The idea is that the initial report would be published for public comment.

Of course, you know, some of this will need to remain slightly flexible. I think there was already a suggestion that, you know, the legal basis discussion may come back on Thursday's meeting. So I think we kind of need to see how to fit that into the agenda and really make sure that there is sufficient time, you know, to discuss the different topics that need to be discussed. But again we hope that this – we provide the, at least a solid plan for how to cover all of the remaining items and get into a place where, you know, the group has sufficient information and sufficient time to deliberate on these issues to come to responses to the charter questions and potentially related recommendations for inclusions in the initial report. So with that happy to take any questions and kind of back to Kurt. And Kurt if you're speaking, you're on mute.

Kurt Pritz: Man I was really good too. So Marika there was a question in the chat for how people can sign up for small groups. And while you think about that or, you know, I'm sure you already have I want to – I found value in the small group so I want to try to keep them small. So I don't know how to make the rules around that and then rules are always gameable as those of us in this business know. But, you know, maybe a rule that you can sign up for two small groups but no more and, you know, try - and make, but make sure that every, you know, your group is represented in a small group. So I think that's important but and keeping them small I'd like you to limit your participation and not join every small group or maybe limit it to two as a proposed guideline for how to manage that. But (Margie) how can people sign up for the small group? (Margie), Marika, how can people sign up for the small group?

Marika Konings: Yes thanks this is Marika. I don't think we we're foreseeing at this stage any kind of a formal sign-up. Basically I think our idea is to just go ahead and schedule these calls and, you know, send the meeting invites to the full list

but with the understanding that groups self-organize. So then indeed, you know, not everyone shows up but that, you know, each group assigns, you know, one person to the small team and, you know, ideally of course because again something I didn't point out of course these small teams may decide we need some more time to discuss. So it's up to that small team then as well to say well we actually want to schedule some additional meetings or we want to have a Google Doc to start working on this or whatever, you know, works best for that group. So they shouldn't feel limited by, you know, the one meeting that is called out here. You know, they should have the flexibility to carve out additional time if that is helpful in moving the conversation forward.

So again our idea was to do it in a similar way as was being done at the face to face that groups amongst themselves kind of self-organize and assign people to these groups. And I think and again I hope (unintelligible) here our understanding would be that we run at the call in a similar manner as to how we run these calls. So anyone that just wants to listen can go to the AC view only. But indeed the whole idea is to have kind of a smaller group to make the conversations, you know, probably a bit more consolidated and I again really focused on your finding a path forward in introducing this to the plenary group for further discussion.

So if there's a preference to have people formally sign up, you know, what we can do as well is put out, you know, the different small teams up on the list. I'll put a Google doc up and have people kind of sign up so we do know who's showing up or where there may be underrepresentation so that may be another alternative approach, so again it's really up to what the group prefers.

Kurt Pritz: So I think the idea that people join the call without a formal sign-up mechanism is fine. I think if you'd, if the staff gets any notifications from people that they intend to attend via email that we might keep some sort of something on the wiki page or a Google Doc that indicates what the attendance will be but I think any more rigor than that is necessary.

So as you guys might guess we, you know, this list was put together and taken on input from the group at the end of our meeting in Los Angeles. And, you know, as you might guess also there's 1000 ways to skin this cat. So this is one way. But if you see, you know, what could go wrong right? But if you see that something's omitted or something should be corrected or the timing of the discussion is off where we really should fix that I'd sure appreciate a comment, now or afterwards. But I'm going to stop talking for a minute to see if there's any comments on the schedule?

Okay are there any comments anything else before we close the meeting?
Okay terrific, well thanks very much everyone and have a good rest of your day.

Woman: Thank you everyone. Once again the meeting has been adjourned. 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