

**ICANN
Transcription
GNSO Temp Spec gTLD RD EPDP call
Tuesday, 11 December 2018 at 14:00 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-11dec18-en.mp3>

AC Recording: <https://participate.icann.org/p75ch1yt0s8/>

Attendance is on wiki agenda page: <https://community.icann.org/x/-wrVBQ>

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

Coordinator: Thank you. Recordings have started.

Terri Agnew: Thank you. Good morning, good afternoon and good evening and welcome to the 33rd GNSO EPDP Team meeting taking place on the 11th of December, 2018 at 1400 UTC.

In the interest of time, there will be no roll call. Attendance will be taken via the Adobe Connect room. Currently at this time we do have two parties on audio-only which is Hadia Elminiawi and Amr Elsadr. In addition to those two, anyone else on audio-only? Hearing no one further, we have listed apologies from Ayden Férdeline, NCSG; Kavouss Arasteh of GAC, Emily Taylor, RrSG, and Chris Disspain, ICANN Board liaison. They have formally assigned Collin Kurre and Rahul Gosain 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 and 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 documentation and information can be found on the EPDP wiki space; there is an audiocast 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. If I could please remind all to mute when not speaking? With this, I'll now turn it back over to our chair, Kurt Pritz. Please begin. And we're finding that line. It'll be one moment, Kurt.

Kurt Pritz: Thanks - thanks, Terri. And hi, everyone. I hope you're well today. Thanks for joining the call. So we have a couple topics today we've discussed in the past and I'm not sure - they're substantive topics, and I'm not sure exactly what direction the conversation is going to take and how is that going to drive it. It's not as, you know, an attempt at choreography hasn't been made with these or an end result, so I'm asking you to - when we get to Items 3 and 4 in the agenda, maybe it's just Item 3, yes, Item 3 in the agenda, let's be as proactive as possible in contributing to the conversation and see if we can drive to some conclusions on those things.

Let me take a minute and go through some introductory topics and some action items. One is with regard to the letter to the Data Protection Board, so we decided to hold off on sending that during our last meeting, there's a split of a decision on whether or not to send it, and you can't unsend a letter so let things settle for a minute and see if some clarity is provided. In the meantime I've drafted a letter to the GNSO that, after reviewing with some staff here, I hope to send as early as today and explain the situation and why we haven't

sent a letter about the initial report yet. And it's not that we're not going to send it, it's just that we decided not to in the short term. So that's that.

With procuring legal advice for our team, there's a PTST meeting tomorrow, which is the ICANN Executive Committee that manages the budgets for things such as ours. And in that meeting Berry's going to - has - Berry Cobb has put together a slide deck for effectively pitching the procurement of legal services. There's a couple points I want to make as we go through this process. One is I think with regard to the SOW we've written, Kristina in her email made some very good points. I had intended to include some of those in the writing we provide to the PTST but some are new, so Kristina importantly brought up the issue of conflict so we'll include that.

But I want to - she brought up some other - Kristina brought up some other topics too that I want to discuss here for just a minute. One is the process for considering the use of outside counsel. So that will be - that will be a form of process where we formulate our questions in writing and forward them to the outside counsel for written responses. Afterwards if that written response is not sufficiently clear, you know, we can certainly have a conference call or face to face type of communication but I think submitting written questions is important from - to - I'm getting to that, Berry - to two standpoints.

One is we become clearer when we have to put things in writing and we get a little sloppy when we don't, so I think that's one reason for formulating the questions right. And the second is, you know, a cost control; we don't want the outside counsel sitting there while we debate the formulation of questions. So that's sort of why I think an arm's length engagement is important.

For us though, more importantly, I think we have to think about how we formulate the questions. You know, we decided - or at least some of us decided the format of the questions in the initial report weren't quite clear enough and then I reformatted questions in a letter to the - to the Data

Protection Board and many on this group rightfully indicated that those weren't clear or objective enough.

And we tried to put together a couple sample questions at the bottom of our SOW and there's discussion about them. So the hard - and it is supposed to be the hardest part but the hardest part is going to be the formulation of the questions and we need to figure out how we're going to do that effectively.

And it seems to me that we're going to have to create some sort of small team that takes the issues that we want to present to an outside counsel for answering and formulate them in an objective style. But a group of people, you know, you would think that they might be the lawyers of our group but maybe not necessarily and put pen to paper and carefully write those questions out. I think writing the questions out again in a small group format will provide clarity to the question.

And then I think the process from there goes we stare at the questions, see if we know what the answer is before sending it out and if we don't then we probably consult with ICANN and others to see if the questions has been answered by Hamilton. Two things, one is we're, you know, developing this process to kind of get the questions through the sausage grinder quickly and out; but two for us, we need to think about, you know, who would sit on a team and write those questions in an objective way because you know, the quality of the questions in will result in the quality of the answers out.

So all that's happening in parallel, the important which is the pitch is being made to this PCST tomorrow for the funding for the outside legal counsel, sort of along the lines I stated. I think it's also important to note that, you know, ICANN's going to substantially write our statement of work in any case when we solicited CBI for help. I submitted my statement of work to ICANN but I never saw what came out the other side so we have to understand the SOW is going to be rewritten, but the important part is that we procure the services we need and have them in a way we need them.

So, Kristina, thanks a lot for your intervention on the list there. I think your contributions were really important. Does anybody have any questions or statements about that? Okay, thanks very much.

The next thing I want to talk about is the - we had a small group meeting about the positioning of the responsibilities of the parties. And we discussed whether ICANN and contracted parties for example are joint controllers or individual controllers or sometimes controllers and sometimes processors. And so I'm sort of cranky so I'll just say that, you know, there was not much output from the meeting, sometimes I felt like I was in some Albert Camus, you know, existential kind of discussion.

So what became clear to me - so we don't have - we realized, you know, there's not agreement at ICANN whether a joint controller situation exists and I would you know, Dan and Trang can correct me, characterize ICANN's position as still studying the situation. But also we raised on the call the fact that with the many different relationships and the intricacies involved that we internally as a group are not in lockstep as to whether or when a joint controller relation exists.

You know, for example it exists in some situations but maybe not in others. And so maybe ICANN's the controller and the registrars are processors and some ICANN and registrars are joint processors. So, you know, I think we need to again examine this situation just a little more closely. And so I think, you know, I talked to Thomas - I asked Thomas at the end of the call for some sort of detailed - I don't know if I'd call it graphic - but table or indication about how all these different relationships exist and where joint controllership exists.

But, you know, I thought about it some and you know, Thomas's original memos went a long way toward that and we don't want to forget all the work that went into those so I think the path there is, you know, I want to work with

Thomas and maybe Diane does too and maybe a couple others do too but let's - I want to read his memo again and then see where - see if it can be amended in any way or additional authority applied or something like that to kind of make the detailed case we're making about where joint controllership does and doesn't.

I think it's really important that the contracted parties engage. Mark in the meeting yesterday said, you know, he needed to reexamine where and how these - the responsibilities of the parties lie - or lay - and, you know, we noted in the meeting yesterday that no registrars attended, so except that Lindsay came in late because I think somebody called her and said we need a registrar on the call.

So, you know, while we're - I think while we're close to having a position on this I think it's important that we document our position really well and then take some actions before the final report so that we have some indication about where ICANN stands on this and even the ICANN Board.

I think Thomas's memo gets us 80% of the way there but we still have some work to do so need to take step back and look within the EPDP team and get - I think we can get consensus on where these - how these relationships exist and the responsibilities of the parties and then, you know, in that process re-publish Thomas's memo to ICANN in advance of the initial report and say this is where we are, are you going to - are you in support of this or not?

Kristina, I saw your hand go up, did you have a question?

Kristina Rosette: No, I answered it myself. Thank you.

((Crosstalk))

Kurt Pritz: Okay. So if anybody - I'm just looking at the chat for the first time - okay, so I'm done talking about that and if there's any comments about that - or I see Alan has a comment about the - however you spell EDPB so go ahead, Alan.

Alan Woods: Thank you so much. Alan Woods for the record. So I'm absolutely supportive of, you know, delaying the decision with regards to sending the letter to the European Data Protection Board. I would just like to say I don't know many people would be involved on it but I'm sure you've all read the letter that has been sent recently by ICANN to the European Data Protection - or to the data protection authorities, you know, as a result of matters arising to the recent audit.

I mean, when I read that - those letters that, again, went from ICANN to the authorities, my initial gut reaction was that well, now we definitely can't send it because again, it created, you know, we're going to be sending our letter into a haze of here is the same stakeholder group and the same (unintelligible) asking us the same questions and then we'll send ours in and like they still don't get what our role is.

And I think we're - we've now entered into a - even more hostile period with regards to them. And I do not, I mean, if I was strong in my statement before I'm really strong in my statement now. I think we missed - not saying we had a chance but I think we missed the window of opportunity there myself, so I would even further redouble my effort in saying it is not now the appropriate time to send anything to them because, you know, we've been beaten to the path by what I would categorize as a much worse letter.

Kurt Pritz: Does anybody else have any more comments either on that letter to the Data Protection Board soliciting legal advice or the joint controller responsibility of the parties' discussion? Okay I'm going to ask - I like James's perspective. Anyway that's sort of a side discussion.

So, you know, in this discussion about the responsibility of the parties I'm again, you know, counting on Thomas to work with me and others and I think Diane. If anybody else is interested in that we want to, you know, tee it up for - especially for the contracted parties who are named in here so I'm asking that you take active - at least an active reading role in the output and make a statement and will be brought into the conversation at the appropriate times. So I hope that's okay with everyone.

Okay so there's only one other preliminary that I want to discuss and that is the accuracy discussion that's been framed up fairly neatly by Margie and responded to I think by Alan, right? So here's my perspective on this, it seems like there's two discussions, one is whether accuracy is in scope and the second is, you know, if it is then what do we talk about? And I want to, you know, I had - one of the same thoughts that Alan did so, you know, I might ask this of Margie and those supporting the accuracy discussion that, you know, I don't want to spend a long time discussing whether accuracy is in scope or not and then have an unconstructive discussion about what changes might be made.

I'd rather almost leap to what - those that are proposing that accuracy be included in our agenda, you know, what's the, you know, what's the hoped for outcome or the objective or the, you know, any changes in the current regime that should be made because I think that's probably a faster discussion than whether or not it's in scope. And, you know, we might arrive at something that's an easier combination or we might quickly arrive at something that's - where no change is indicated for the time being or that further work is noted.

So in the time leading up to this discussion Margie and others - hi, Margie - Margie and others think about and write down if you can what you think the alternative is or I think how Alan put it, you know, yes, well what's the alternative to the current plan. Thanks, Margie.

All right so I'm doing good so far. Before we get to the substantive discussion, Marika, or Caitlin, do we have any other action items to discuss?

Marika Konings: Thanks, Kurt. This is Marika. I'm just pulling up the action item list. I think there are a couple of outstanding items in relation to last week's meeting, someone's - you already mentioned that, you know, are in progress in the works. I think if you go - scroll further down I think there are two items from the 4 December meeting in relation to messages to be developed for ICANN Org that I believe are still outstanding.

Kurt Pritz: Is that it?

Marika Konings: Yes. And maybe if I can just note - I know that there was really discussion or there's really good discussion going on on the list in relation to accuracy but there were also two additional proposals that Margie put forward that some people have already started weighing in on so again, you know, anything that can be discussed on the mailing list I think is helpful in preparing the meetings so just maybe to encourage everyone to look at that and weigh in on those two topics as well.

Kurt Pritz: Okay great. Let's - either put the agenda up or I don't know if there's any document associated with the first topic. So I think, you know, Marika did a lot of work on this. Can you take us through this, Marika?

Marika Konings: Sure, Kurt. So this is Marika again for the record. So we actually had this item on the agenda for the last two meetings but didn't manage to get to it. So that was actually first up here is to make sure we were able to capture it. This was partly inspired by some of the questions that we got during the webinar where there are a number of questions focusing on, you know, when is the group expected to start working on the system for standardized access. And, you know, what is the triggering point for that.

So in response to that staff went back to the charter to actually pull up that information and look at, you know, what are, you know, Phase 2 items that the group is expected to focus on, which on the one hand is indeed the system for standardized access to nonpublic registration data. And if you - you can see in the mind map that there are a number of specific questions associated with that topic.

But in addition to that there are also the questions that were captured in the annex to the temporary specification that is labeled as important issues for further community action that were also included in the charter as items to be discussed after the group has dealt with the temporary specification. And you may actually see that there are a couple of topics that, you know, have already come up through our deliberations that are captured and as such, you know, materialized in the charter as items that the group will need to deal with as part of its Phase 2 discussion.

You know, what I added as well, what you see on the top in that separate box is the kind of conditions that the charter outlines for, you know, when the group is expected to start working on these. In relation to the standardized access model, you know, that conversation is expected to begin once gating questions and those gating questions specifically focus on, you know, purposes, the collection of registration data by registrar, the transfer of data from registrar to registry and the publication of data by the registrar or registry have been answered and finalized.

And the expectation I think of the charter was that that would be finalized in the temporary specification initial report. You know, the threshold as the charter also points out for answering these gating questions shall be consensus of the EPDP team so again the group could discuss, you know, has that point already been reached? But, you know, as you all know, no formal consensus call has been conducted yet on the initial report recommendations. And similarly, the GNSO Council is also expected to give a non-objection for starting that conversation on that second phase.

And then it also basically calls out that, you know, the work on the items in the annex are also expected to take place after, you know, the gating questions have been answered so as part of that Phase 2 conversation. So we thought it might be helpful for the group to at least, you know, have a clear picture of, you know, the work that is still remaining and needs to be dealt with in that Phase 2, and again, you know, it's up to you to discuss when you think that gating questions have been answered whether that, you know, if any preparatory work, you know, could already start in parallel or whether it's really that the final report that will be able to, you know, give a consensus answer to those gating questions followed by non-objection of the Council.

And similarly, as said, you know, there are a number of topics in the annex that have come up in the conversations of the group but that have also been specifically called out as topics to be dealt with in Phase 2 of the conversation. You know, of course having said that, you know, if there are any topics that come up through the conversations that the group believes are not currently called out but should be reflected, you know, there's always of course the opportunity for the group to go back to the GNSO Council and you know, request or notify them that there may be additional topics that need to be added to maybe that, you know, the annex list of topics that need to be dealt with in the Phase 2.

But again, we hope that this provides a helpful illustration of, you know, the work that you still have ahead of you following finalization of the report on the temporary specification. Kurt, do you want me to manage the queue or would you like me to do so?

Kurt Pritz: I wanted to take myself off mute and then say if you can link to this document, Marc asked for the link, otherwise maybe you can point to the specific email where it is so he can - he and others can look at it more easily, so if you could do that? So that was really good, Marika. I have a couple comments myself. But go ahead, Amr.

Amr Elsadr: Thanks, Kurt. This is Amr. Excuse me. And thanks, Marika, for the briefing. And I think I'll take the opportunity to ask a question because I'm not entirely sure I understood the threshold you mentioned that's in the EPDP team's charter. When you say that the EPDP team needs to reach consensus on our responses to the gating questions and the GNSO Council needs to, you know, show sort of non-objection to those consensus recommendations, I was just wondering exactly what that means in practical terms? Does that mean that we need to finalize our final report and then the GNSO Council you know, expresses non-objections on recommendations?

Somehow that doesn't seem to be the case to me because you know, if we did have a final report then the GNSO Council would vote to, you know, adopt the recommendations. It wouldn't be a case of non-objection; there would be the traditional consensus levels used on the GNSO Council. So if you could clarify the practical steps that are required to achieve this threshold I'd be grateful. Thank you.

Marika Konings: Thanks, Amr. And this is Marika. I can attempt to answer that at least from my perspective, and you know, having been involved in the charter drafting team, but I know that there are others on the call that were also involved in that effort. And I think the way this was envisioned that, you know, by the time of the initial report the group would have responses to the gating charter questions and at that point, you know, if the group was indeed in consensus that those were the answers that might be the starting point for starting the next conversation.

And as I understand at least the non-objection I think it was more a question of not necessarily asking the Council whether they objected or did not object to the actual responses to the gating questions but more to the notion of the group having achieved a point where they felt that they were able to start work on that second phase because they agreed on, you know, the responses to the questions which at least as I understand from the charter

are expected to underpin, you know, the discussions on the system for standardized access.

And one point has been made if you haven't agreed on what data is collected in the first place, you know, how can you talk about, you know, what access is provided to what. So I think the reference to consensus and non-objection is more in relation to is there agreement in the group that the questions have been sufficiently answered to start conversations and discussions on that second phase of work or not? So I think that is a bit the evaluation that the group at some point needs to make.

And of course it's not only a question of, you know, has gating questions been answered but also of course the bandwidth that the group has, you know, to already start working on other issues while you're still as well of course in the process of finalizing your report.

Amr Elsadr: Thanks, Marika. This is Amr again. Could I follow up please before we go to Margie?

Kurt Pritz: Sure.

Amr Elsadr: Thanks, Kurt. And thanks again, Marika. That makes a lot of sense to me. It sounds good. So if I may propose something I would propose that we proceed as Marika has suggested but in parallel I think it might be helpful for us to possibly through Rafik as Council liaison to this team to seek clarification from the GNSO Council what they might expect of us in this regard and that way you know we will know and they will know - we'll all just be on the same page of where we need to get to this so that we can move onto charter questions on the next phase of this EPDP. Thanks.

Kurt Pritz: Thanks very much, Amr. Yes, from my standpoint I would like to see that there isn't a large gap in time between finishing and answering the charter questions and undertaking this discussion that while we wait for a GNSO

determination that we'd want some - in that clarification request to the GNSO we'd want some indication that we can, you know, at a less frenetic pace but, you know, roll more or less directly into the next phase of the discussion when we're done. Margie.

Margie Milam: Sure. This is Margie. I don't understand the whole approach. Does - I've been looking through the charter to see where it says this. I understand that we were supposed to answer questions before we went to Phase 2, but where does it say that you have to have agreement on consensus before you move onto Phase 2? Because I think this is really delaying a very important discussion that we need to have and especially if it's something that's going to be done after this final report. In my view that just simply makes no sense.

The consensus calls essentially aren't, you know, really valid until we've finished the whole process. And from - at least from my perspective it's just - think about it - if there's no consensus later on on the whole model of access, then there's no agreement on the other stuff either because where we've been operating in good faith in this EPDP, that we'll get, you know, we'll get to the issues that are important to my constituency and others that have the same, you know, concern. And we've been participating in good faith thinking that this will be something that gets resolved before we get to the final report.

And now I'm hearing that we're going to go to the final report and not address those issues. And I want to see in the charter where that's the requirement because as I understood it, Phase 2 was just simply after we've answered the initial questions, and we could certainly do work assuming the answers that came out of the initial report and, you know, we can, you know, definitely make progress there. So I would actually oppose the approach suggested by staff unless it's, you know, written hard coded into the charter because obviously, you know, that's what the rules say, that's what it says. But I just - I didn't read it that way and I'd like to see the language in the charter that supports the task be done after a consensus call on the first phase.

Marika Konings: Kurt, if I may respond? I just want to clarify that, you know, staff is not proposing anything here. What we tried to do is translate what is in the charter, you know, in the form of a mind map and just, you know, share that with the group. You know, the language that is quoted, you know, at the top on what, you know, consensus means, you know, is a copy paste from the charter that appears on Page 7 right underneath the system of standardized access to nonpublic registration data.

And it refers to, you know, the threshold for establishing answer for the gating questions shall be the consensus of the EPDP team. You know, reading that language of course it doesn't go into the detail of whether that means consensus on, you know, the recommendations in relation to the gating questions or whether it's a general, you know, the group agrees that, you know, the gating questions have been sufficiently answered to move forward.

But it still assumes an agreement within the EPDP team, you know, to move forward to the next phase at least, you know, from the staff's reading of that language. But as said, you know, as some already noted, if there is a need for clarification of you know, what that means in practice or also in relation to, you know, non-objection, what the Council expects to receive or hear in order to be able to give that non-objection then I'm sure Rafik as the liaison would be happy to take back any of those clarifying questions.

Kurt Pritz: So, Margie, what's the - this is Kurt - what's the - what's the - what would be the timeline in order, as you see it? And the reason I'm asking is that the final report is due in a stunningly short period of time and the amount of issues requiring resolution for that final report is not quite overwhelming but substantial and will certainly take up all the time between now and that time. So I'm not sure - so given that, I don't see any way to take up the access discussion until the final report is written. So I want to understand how you would - what you're advocating how that differs from my perception. Was that clear at all, Margie?

Margie Milam: Yes, it would. And honestly a final report means the work is done. And think about the negotiation here, you know, we've, again, acted in good faith and, you know, evaluated the issues of purpose and elements and, you know, we've done that. But to say that we're not even going to touch the important issues of, you know, access until after that's been closed gives no reason for anyone to even accommodate our issues. And so I think, you know, the consensus calls have to be, you know, linked to the conclusion of those discussions because, you know, if there's no agreement on access at all, you know, we've essentially failed, at least a significant chunk of work here.

And the language that Marika quoted, I don't think it requires a final report. And in fact final report is a term that is used when the process is finished, you know, it cannot be a final report until after the, you know, after the work has done everything, you know, we've done the work under the charter. So I would strongly oppose using the word "final report" for something that doesn't include all the aspects that need to be included.

Now you could say final report for Phase 1 or whatever, you know, but to make it sound like there's - that the work's concluded is really, I mean, I think a huge problem for us. And, you know, we can, you know, there are enough people I think that are interested in the topic that we could create a sub team or something to start talking about some of those issues. And so again I don't feel that the charter precludes us from doing that and I would encourage us to do that.

Kurt Pritz: Okay. Thanks, Margie. You can see what Marika's typed into the chat, I was going to say a milder form of that and that is, you know, I'm certainly for, you know, making this the final report for Phase 1. And I think that - I think Marika is saying the charter foresees that. So okay, go ahead, Georgios.

Georgios Tselentis: Hello. Hello, everybody. Can you hear me?

Kurt Pritz: Yes.

Georgios Tselentis: Yes, I just want to clarify something from the presentation of the mind map of Marika. We are talking about consensus. If I remember well in the charter there are different levels of consensus; are we talking about full consensus, consensus, strong support? What - in other words when we talk about having the questions sufficiently answered, what does it mean there? I mean, how is this defined? Who sets the bar? And I would say, okay, now we answered sufficiently those and we have agreed. And what level of agreement are we talking about? According to the charter again, I'm asking.

So if we have something more clear from the guidelines from the charter I would be happy to hear that. And I have to also say that I'm a bit worried like Margie that we keep deferring things. I know that there are difficult answers to some of the points that we are discussing here and not - everybody is not in agreement with somebody else. But we should not keep deferring those things for later and later and probably not discuss them at all. Thank you.

Kurt Pritz: Thanks, Georgios. So, you know, I think when we discuss these things and have our consensus call we will identify whether we have unanimity or whether, you know, we have very strong consensus and I think there's terms in the policy manual for, you know, if one group dissents but the rest of the group decides to go ahead despite that difference, then we have a slightly weaker but still strong kind of consensus.

And we'll probably identify areas where we don't have consensus yet but because we are operating to a timeline, and because we need to finish this report on time for the May 25 discussion by the Board, we will necessarily I think get onto the discussion of access in what I think is a pretty darn short period of time because we're supposed to wrap up this Phase 1 briefly.

What's interesting about this mind map, which is, as Marika said, just copy pasted out of the annex, there are some issues there that anticipate that some of our discussions might go into Phase 2, other than just access, for

example, the distinguishing between legal and natural persons or methods to provide URS and UDRP complainants with sufficient access to registration data to support good faith filings of complaints. So in fact some of these issues we're discussing now are to be, you know, discussed by us during this phase but understanding that the access discussion might make some of these arguments we're having moot because an access model is approved, some of these points are also discussed in Phase 2.

And I think, you know, we're marching along to a very tight timeline and finishing Phase 1 in the time allotted would mean a very timely start to the access discussion I think. Go ahead, Alex.

Alex Deacon: Yes thanks, Kurt. It's Alex for the record. So, you know, I agree with Margie that we don't want to wait until this final-final report. I think it's no secret that this discussion is important to us in the IPC. I think to kind of maybe restate in a different way the initial question by Amr. I think we just need to all - we need to be transparent regarding, you know, what our work plan is, you know, what is our plan to get to the point where the questions have been answered sufficiently, some definition of sufficiently.

We have a consensus call and then we get to work on the access discussion so we can file the final-final report. It's just - it's not clear to me kind of what our plan is to get from where we are today to get to, you know, to complete what we need to complete at some point in the future. I think if there was more clarity and transparency and an agreement how we do that, that would be helpful and I think alleviate some of the concerns that Margie expressed and that I have. Thanks.

Kurt Pritz: So maybe, let me - I'm going to ask Berry to work with me on, you know, resurrecting the timelines that we've done, which still more or less hold and indicate, you know, where - there's no final-final report, there's just one final report - and indicate the delivery date of that. And, you know, for me from a management standpoint slot in the issues that need to be discussed so we

can kind of look at the breadth of the work that needs to be done between now and the end. And that will help us set up the agenda for the face to face meeting we're going to have.

So Alex, let me take your question and turn it into an action to come back with a timeline for everybody, so, you know, then we're discussing with some agreement about dates and then we can argue about dates I think more clearly. Go ahead, Amr.

Amr Elsadr: Thanks, Kurt. This is Amr. And good question, Alex. But on the issue of, you know, the report, the final report and when we get to access, I just want to remind folks that, you know, this is what the GNSO Council adopted as a charter and our charter does outline that, you know, there's going to be more than one initial report meaning there's going to be more than one final report. And it's the third deliverable of the EPDP team which will be the initial report and, you know, subsequent final report on the proposed model for system providing accredited access to, you know, the redacted data in the gTLD registration data set.

I also wanted to remind folks that we actually did bring this up on the very first call of the EPDP team, you know, just to be clear on what we should expect in terms of what we need to get done for the initial report we're working on - the final report now that we're working on now and a subsequent initial reports on a proposed access model. So this isn't new and I'm a little puzzled that some folks are, you know, might find this surprising at this point when this is something that was covered by the GNSO Council including representatives of the Business Constituency and the IPC and then it was covered again by this EPDP team at the onset of our work.

So I just hope we don't need to waste too much time re-litigating this; we should just get on with the substantive work. Thank you.

Kurt Pritz: Thanks, Amr. And I think, you know, and I hope - republishing the timeline that we had in the first meeting but fleshed out with the remaining work items will make that clear. Hadia, go ahead, how's your microphone today?

Hadia Elminiawi: I'm not sure. But I just (unintelligible)...

Kurt Pritz: Yes, go ahead, Hadia. We can hear you.

Hadia Elminiawi: I actually agree with Margie and others that once the gating questions are answered we should be attempting to address the access issue because in fact the charter actually says that after answering the gating questions we could proceed. And it doesn't say anything about consensus, just - and also the main reason behind this was reaching (unintelligible) set of data. So if we agree on a baseline set of data that is collected for each domain name registration then we can proceed with talking about the access.

Kurt Pritz: Thank you, Hadia. Go ahead, Margie.

Margie Milam: Sure. I think - this is Margie - I think Amr, I mean, obviously we know that the charter had this stage, but I don't think the charter is that clear that as to when this is the appropriate time to have this discussion. And the charter actually does say that these gating questions are to be answered and finalized in preparation for the initial report. And we filed our initial report. So I just, you know, I don't think it's something that was agreed upon and settled right at the beginning of this EPDP; I don't think we got into the depth of what really it means to answer these questions.

And so I would, you know, encourage us to think about how we can build this into our timeline earlier because it is an important issue to us and maybe, you know, maybe one of the suggestions could be, you know, our time in Toronto maybe we could set some time in Toronto to talk about how we're going to go about having this access discussion and to start kicking it off because it's

really impossible to have a full consensus call until the process is completed given that access is such an important part of the issues we need to analyze.

Kurt Pritz: I think we can have this discussion via email but, you know, the final report is due in essentially six weeks and there are a number of issues to be discussed in that time. So even if we exceeded expectations then, you know, we might start the access discussion days earlier than planned. But so for Margie and others, my initial comments after I think Amr's first intervention was that what I don't want to have happen is there to be a gap in our discussions after the final report on the first days is issued. But as planned we will write into the access discussion, so the plan for this group is to undertake that discussion with all due alacrity.

And, you know, I think - let's listen to Mark and then maybe finish this conversation and then we'll put the, you know, I'll work with the support team, we'll put together a timeline and I think it'll be demonstrable that the access discussion is going to occur in line with the charter and as quickly as possible.

Mark Svancarek: Hi, this is Mark. Two points. One, regarding, you know, saying that things were discussed in the first meeting, the way I recall the first meeting is we raised these issues as early as the first meeting. We were very concerned that we would do a lot of work and then at the last minute, you know, basically have the rug pulled out from underneath us.

My reading of the charter, and again, you know, maybe I'm dumb, maybe you need to explain this to me like a five-year old child, but it seems to me a that the gating questions were supposed to have been deemed answered for the initial report which means that if they're not answered the initial report fails to meet the charter requirements. So if that's the case, we should probably take a vote pretty much immediately to determine whether we can even accept the initial report and if we can't we should pull it back. So I don't know, explain to

me why that's not the case. I'm sorry if I'm misinterpreting it. But that's what it seems to me. That's all.

Kurt Pritz: Well I think, Mark, that we got to agreement on the areas we could in the timeframe allotted but we couldn't get to agreement on all the issues. And in the interest of undertaking the access discussion as quickly as possible we - and for meeting our deadlines, we chose to issue an initial report that indicated there was agreement even though we didn't define it or undertake a consensus call yet and indicate where there were differences with enough specificity so that public comment could inform our deliberations adequately.

So I think that if you want to pull back the initial report we could talk about that. But we certainly, you know, doing the effort to meet the timeline and we would also considerably delay undertaking the access discussion. So in fact you know, the release of the initial report was an effort to not pull the rug out from the timing of the access report but rather to ensure that it occurred in a timely manner.

Mark Svancarek: Well, I mean, what I think I'm hearing today is the beginning of a triangulation to simply say, well the gating questions have not been answered so we can never proceed to access. So, you know, hopefully that's not the case but it seems like the discussion this morning is sort of framing that sort of a situation and that makes me very concerned because that would mean that, you know, by design we can't get to the second part of the discussion that, you know, it can simply be vetoed and say no, no consensus, can't talk about it.

And that's how the call feels to me this morning. And I am very concerned about that. So if that's not the case I'm very grateful that that's not the case, but kind of how it feels to me right now.

Kurt Pritz: So I understand what you're saying but when I looked at this chart and, you know, we were wondering whether to put it on the agenda or not, when I saw

this chart it was intended to get the group to start thinking about Phase 2 and the topics and the agenda for Phase 2 of as sort of a warm up. So the intent of, I think, and I think the intent of the chart was to start turning our minds towards this rather than saying it's not going to happen. You know, all the language in this chart is just pasted right out of the charter so there was no new language inserted in here that is intended to block. And in fact it was meant to be a, you know, an accelerant or a facilitating - what's the chemistry thing that you use when you put a chemical into facilitate a chemical reaction? Anyway it was...

((Crosstalk))

Mark Svancarek: Catalyzing - catalyst.

Kurt Pritz: Yes, so it was meant to be a catalyst for the oncoming discussion, not an indication that there's a block to it. Yes, so gosh, I'm sorry for the angst and the emotion this caused. And I'm going to try to take some of that concern and angst out of it and work with Berry and maybe other members on the team and publish a timeline and get to that. But I think what Mark S and others, you know, what's incumbent upon us is to work through the rest of our issues that are on the critical path to starting the access discussion. And the goal is to - always been to start that discussion immediately after this work. All right then, sounds good.

Next. Let's talk about something hard. So I'm just going to - so this is topic list item Number 7 which is the definition of optional recommendation - definition of optional. And the, you know, there's certain, you know, we've discussed this before so I'm a little bit concerned about where this discussion is going to go and I'm hopeful we can - that we can contribute to the discussion and make some headway.

So right now there's, you know, optional elements in the data that's provided by the registered name holder, you know, the organization, the phone

extension, and then the tech contact field, the name, phone number, email and also an indication of whether it's a DNS SEC site. So in Barcelona we first talked about - I think we had two discussions at different times. One was with regard to the tech contact and the administrative contact and the billing contact.

And the first discussion involved the value of the tech contact to many registrants. And also those who needed to contact the person at a registered name holder that could do something good in the case of an emergency. And so at that time there was - the first - I don't want to say the word "compromise" yet but the first way to go about this first was that we said well, eliminate the administrative and billing contact and retain the technical contact for those very valid purposes. And, you know, I think they're very valid.

At a later time we had another discussion and that was that the technical contact is, you know, almost by definition not the registered name holder. And so there's somebody within a firm sharing the technical contact's personal data and so what risks does that pose to the contracted parties, namely the registrar in, you know, handling that data and whether that should be done.

And then the third point that was made in that discussion was that the Data Privacy Board, I think or it might have been the ICO, indicated that using a third party as a technical contact was okay so long as the technical contact - that person was informed of that usage and that - so informed is a lot different word that consent so that raised some questions for us.

So I think that's an assessment of where we are. And we're looking to get to what we want to include in the final report with regard to the data collected and redacted. And so I wonder, you know, first to get back to our first discussion about, you know, eliminating administrative and billing by keeping technical because it has very valid purpose so that would make it incumbent on registrars to make this optional data field available or whether it's - or

because of the risk factors or because of business model, you know, registrars themselves would have the option of whether or not to provide this data field.

And I wonder if - just to close this out - I wonder if our answer might be contingent on whatever legal advice we get regarding what informed means and whether such a, you know, how the informed word can relieve registrars of the concern about liability - legal liability. So that's sort of a mouthful and that's a kick off to a discussion that's sort of a - and I'm happy to hear anybody opine on this. So please go ahead, Hadia and then we'll get to Kristina.

Hadia Elminiawi: Okay so the way you put it, Kurt, now, you said should it be optional or required by the registrars or should we wait until we know what informed means? And that means that the issue is in the definition of informed and whether the registries and registrars are liable or not. And so right now even if we choose to say well, registries and registrars it's an option for them, they will never actually provide this option to the registrants because if we establish that there is a portable liability why would they?

So the question here changes from whether registries and registrars are required or not required to if we - that we need to know if there is a liability or not because actually - because actually as we mentioned the history how we ended up with having the tech as an option there, the tech contact as an option there, it's there because it is required and needed by some of the registrants. So actually it is a requirement for some of the registrants. It should be required to be offered by registries and registrars because it is a necessity for some of the registrants. So that's my take on this. Thank you.

Kurt Pritz: Thanks, Hadia. Kristina.

Kristina Rosette: Hi. Kristina Rosette for the transcript. Kurt, I think I need some clarification or a better understanding of what we are trying to decide here...

((Crosstalk))

Kristina Rosette: ...in terms of are we trying to decide the substance of the answers or the approach for the answer of getting to the answer? Because we're trying to decide the substance, I would just point out that these questions, particularly with regard to the technical contact, and actually even administrative and billing, are out for public comment. So it would seem inappropriate for us to be trying to decide them (unintelligible) while that public comment period is open.

If we're talking about - if your point is to identify the approach, namely what inputs do we need, then that's a different thing, but I think it would be helpful to clarify that. Thanks.

Kurt Pritz: Thanks, Kristina. I'm not, you know, first of all your question's really good because I mixed those two things up and maybe a little bit intentionally. I'm not sure so I'm against talking about substance even though we're out for public comment because if we can, you know, if we make some sort of substantive decision that would still be beneficial to our decision making and conclusion and can read the public comment in light of that afterward. But I do wonder if procedurally we can make - so by procedurally I mean we can make substantive decisions conditional based on the inputs we receive from the various sources confirming, you know, what does informed mean versus consent and those sort of things.

So I admit I did mix those and I don't feel like I'm sitting - I'm undertaking a substantive decision while we're out for public comment. James.

James Bladel: Hi, Kurt. Thanks. James speaking. And I just wanted to respond to the intervention previously from Hadia where she mentioned that making this optional for registrars would result in no registrars offering this to their registrant customers. I think that's false and reflects a kind of a lack of

understanding of how the commercial industry operates. As I indicated on the mailing list, we and other registrars have heard from our customers that some segment of our client base wants this function so whether it's optional or required I think you will see a significant number of registrars offer this.

Choosing to accept the risk in order to you know, acquire customers and compete against their competitors and win and serve those customers effectively, other registrars may not decide, you know, may not participate in that particularly market segment and choose not to offer it. And so I don't - I just want to push back on the idea that if something is optional that the default that it would never appear in the marketplace as a function that would be open to registrants because I think that's demonstrably not correct.
Thanks.

Kurt Pritz: Thank you, James. Thomas. Hey, Thomas, you're still on mute.

Thomas Rickert: Can I be heard now?

Kurt Pritz: Yes you can.

Thomas Rickert: Okay great. Now I guess I want to make a legal point. I mean, the policy decision whether it should be optional or mandatory for contracted parties and on that I think we should actually wait for the outcome of the public comment period. However, I think we have a more fundamental issue that I think we can't easily resolve and that's potentially candidate to go out to external counsel on, the European Data Protection Board, that's easier than the acronym, mentioned that when data is collected of third parties, so where the Tech C is different from the registered name holder, that information to that data subject would be sufficient.

And I don't want to read anything into the Data Protection Board's letter that wasn't meant to be in there, but that language suggests that it would be sufficient during the registration process to just inform the third party Tech C

or, you know, if it still exists the Admin C, and that would lead to a situation where if we have consent-based processing, which I think optional collection is, and Hadia will disagree with me, but that's fine, then we would go lower than the requirements set out in Article 7.

And Article 7 lists the requirements for validly obtaining consent from the data subject. And I think that has huge impact on how the registration process can be operationalized. So in simple terms it means if the Admin C is a third party does the European Data Protection Board suggest that just informing the third party data subject is okay to be fine, or do they think yes, we need to obtain consent inform and on top of that follow all the requirements of Article 7, which means that we need to be able to evidence the consent by the third party.

And that's a legal question, that's not really policy I think we need to discuss and further work on. I hope that hasn't been too confusing, but I think that the European Data Protection Board letter has not been clear in that regard and therefore we should either go to them, that was one of the points that I suggested putting into the letter to them, or that we should try to, you know, to find out via legal counsel what the best way to proceed with this would be. Thank you.

Kurt Pritz: No, I think that was really (well), Thomas, and that's why I was wondering we could have a substantive discussion and make it conditional, so, you know, if we receive notice that full consent is required then, you know, retaining the contact information in the near term is a lot more difficult, if we receive notice that, you know, a notification from the registered name holder to the third parties is all that's required then it becomes a lot easier. So I was wondering if we could have - that's what our conditional discussion.

Mark.

Mark Svancarek: Thanks, Kurt. I wanted to thank James for his intervention. I almost completely agree with it. I had a few concerns but I think that if this is market-driven that probably is going to be a good solution. I mean, I am a little concerned about two things, one is that somebody might discover that there is a registrar in their market, you know, their region or their currency, that offers this feature; that could happen. Also, you know, if light of the UI is designed correctly, you could click 90% through the process of this say, oh no, my registrar does not offer this feature, so we would be, you know, it would behoove us to have a good design so that that bad experience doesn't happen.

Oh sorry, and then the next comment I think we've been discussing since LA, and this is a discussion that we never got agreement on actually, but the idea was put forward that the - during the verification process that, you know, the email that is sent to verify admin contact would have a question, you know, do you consent or not? And then, you know, that's not a super popular idea because, you know, requires writing some code and doing some processing. But I would point out though that in the user interface where the data subject is allowed to change their data, you know, this is not accurate, you could certainly tie that experience into that screen. You know, I want to remove my tech contact, I want to add my tech contact, things like that. I don't know if that's helpful or not.

Terri Agnew: Kurt, this is Terri. If you're speaking it appears you may still be on mute.

Kurt Pritz: I was and I was telling Diane she was still on mute. So Diane, go ahead please.

Diane Plaut: Hi. Thank you. I wanted to take forward Thomas's point. My - this is a complicated issue for us and one that needs to be addressed. It's my thought that the European Data Protection Board has answered our questions, they've said that informed is enough perhaps because the construct here is different than a standard construct that would exist in Article 7 requirements

and that here's no direct contract with the data subject and we're dealing in this context with legal persons providing tech and admin contacts so that there's an agency relationship and therefore we don't need to reach that higher level of Article 7 and the need for consent.

And then once we get into a consent, if that was a possibility and we provided it, then we get in the issue of certain people thinking that this is, you know, a normal data subject or registrants thinking that this is - should I provide consent, should I not, and half that don't, then we're in a situation that places the Contracted Party House in a difficult administrative and burdensome situation because then consent needs to be withdrawn at any time, and that's difficult to manage.

So if we take it to the level that we think that the Data Protection Board is saying that informed consent is enough here or being informed is enough here, then we could just provide educational information in the application which lets the legal persons know that if they provide tech or admin contact information that they're doing so having informed that technical or administrative person and to try to avoid using personal information within an email.

If we ask outside counsel for advice, the concern is, is that we might not all agree with that advice that's given. So ultimately it is better to go back to the Board but as we've all discussed, perhaps they think that they've answered our questions and this isn't the opportune time to do that. So we are in a little bit of a quandary but I think that perhaps we have to make an informed decision based upon the information we have and come to an agreement that perhaps this is enough what we've gotten from the Board, and if we don't feel it's enough we get one last opinion from outside counsel and then we just land. So I think that that's the place we're at. It's a complicated legal question to answer but I think that one that's doable based upon the input.

Kurt Pritz: Thanks, Diane. That was thoughtful and I think that where we've decided that it's probably not best to ask the Data Protection Board A or B questions, it will be okay in the future to say we've concluded that, for example, we have concluded that based on your writing that consent isn't necessary to publish - or not to publish but to collect the data of - the personal data of the technical contact because we are requiring the registered name holder to inform that third party and say that's what we've decided and then the Data Protection Board can tell us no, that's wrong.

But I don't think we can ask them the A or B questions so I think if we do come to some sort of conditional agreement then we could include that and test that that way. I do agree in getting some outside opinion on that issue. Rod, please go ahead.

Rod Rasmussen: Yes, thanks Kurt. And can you hear me?

Kurt Pritz: Yes, perfectly.

Rod Rasmussen: Great. Thank you. So I'm filling in for Benedict today and I just wanted to point out a couple things. On the overall issue I believe we'll be weighing in on the public comments as SSAC so I'll save the thoughts on the, you know, the value of the tech contact and all that. I want to point out a few things though in thinking about this, just logically, around the idea, if you were to make it an optional thing for registrars to collect, as long as a single registrar decided to do it, it's actually mandatory for all registries so they don't really separate that out which means you still need to figure out the legalities of all of this.

The - so it's almost a - I would say that making it optional actually complicates this immensely; either you do or you don't and come down one way or the other on that just from both that we have to figure it out anyway, the registries would have to support it no matter what and you have - then you start having some questions about data portability as well, if you do have transfers, what

happens when you don't have the information, what happens when you do, the registrar may or may not collect it, the registry may have the data. That sounds like we're going to get data mismatch depending on how things work technically.

Some of the technical implications around this actually kind of the drive the policy here as well; I wanted to point that out to help hopefully frame these discussions a bit. Thanks.

Kurt Pritz: That was meaningful. Thanks, Rod. Margie.

Margie Milam: Hi, this is Margie. I had similar concerns as what Rod just mentioned. I mean, you have to remember that we have technical contact now in the, you know, Whois system and so what do we do with the ones that already exist? Do they, you know, I mean, if a registrant has them and their registrar no longer offers them, do they lose them? You know, are they informed? You know, I mean, it does raise a whole bunch of issues that - I don't know that we've thought through so I just wanted to raise that and see if anyone's given some thought to that.

Kurt Pritz: Thanks very much, Margie. Thomas.

Thomas Rickert: Just a quick response to Margie's point, the data that has been collected needs to be tested against the GDPR requirement that you can keep the data if it was collected in compliance with GDPR. So if at the time the collection was compliant with GDPR you can keep the data; if not you need to legitimize the collection or delete that data. Right. So there's, you know, regardless of how we place it, we need to - either this group or somewhere else inside ICANN a decision needs to be made how to deal with the legacy data pool that's in the system.

Kurt Pritz: So, Thomas, you're more or less agreeing with Margie's assessment. Did I hear you right? Yes. Yes, so - and...

((Crosstalk))

Kurt Pritz: ...I would be shocked - go ahead, Margie.

Margie Milam: Sure. So yes, I see what Thomas's concern is from the GDPR perspective. But I'm thinking about it from the registrant's perspective; if they have a technical contact and they've already, you know, decided that that's how they want to manage their registration, does it, you know, what happens if their registrar no longer supports this? Do we create a policy that says if the registrar doesn't support it they have to inform the registrants that, you know, that have that it's going away? I mean, I don't know, again there's other issues outside of the GDPR specific ones that Thomas raised and it makes it pretty complicated. And I think it's something that we would have to address if we were going to take that policy position.

Kurt Pritz: Right and I was about to say I'd be shocked if registrars aren't giving this a lot of thought because you know, it seems to me if this Data Protection Board advice that is - that consent is not required but just a notification, then it seems that - it seems that - and this isn't - I can't make any legal conclusions here, but seems that the data collected in the past is legal. But if consent is required then the data collected is no longer legal and action must be, you know, some action must be taken right away.

So but again, I found Rod's intervention really meaningful. So I'll just talk for a minute, I think, you know, when Hadia started the discussion, you know, I immediately went to Thomas's response that, you know, that registrars will offer this service based on the markets they're trying to serve, so that's one option. But I also think that if you have a registrar and you're getting good service then you're likely, you know, many people are likely not to use the technical contact anymore and not bother with changing the registrar. And does that make the whole DNS a little weaker or not? I don't know, so there's competing discussion there.

Rod's intervention makes it seem to me that, you know, our conditional sort of compromise on this might be the best alternative, where if we find that if consent is required that - and considerable work is required to implement a consent mechanism, and I think we all agree with that, that that makes the maintenance of the technical contact problematic in the near term. But if the registered name holder can be merely told that he must notify any third parties where their personal data is shared in the data registration data, then that makes it less so and because of the downstream registry registrar relationships maybe we can decide that registrars would continue to offer the technical contact.

So I don't - I'd really love to hear from, you know, contracted parties about the business implications of this and not just business from a dollar and cents point but from a implementability standpoint and understand where they are on this issue. And then if somebody will talk then we'll probably let it go for now. Go ahead, Lindsay.

Lindsay Hamilton-Reid: Can you hear me?

Kurt Pritz: Yes, I can.

Lindsay Hamilton-Reid: Oh you can okay. I know I've had a few problems with the mic previously. This is Lindsay for the record. (Unintelligible) that are we actually discussing still collecting tech and admin contacts and how we make sure they're accurate? Is that what's under discussion?

Kurt Pritz: No...

((Crosstalk))

Kurt Pritz: So what's under discussion is whether by making the tech contact optional we mean it's optional for the registered name holder to enter the tech contact

information or whether it's optional for the registrar to provide that capability. And we're sort of lopped around, you know, the Data Protection Board advice that consent is not required, so that makes it - and we're also lopped around the fact that if one registrar offers the service then all - nearly all registries must offer this service.

Lindsay Hamilton-Reid: Okay. From a registrar perspective, and technically a registrar that I work for, we don't collect that (unintelligible) 25th of May. I've said this before. That's fine to make it optional but then that goes against the principle of data minimization. If it's optional, why would we need to collect it anyway? I appreciate there may be some registrants at their companies want to put that on there, but again, maybe there should be a separate spot for that to give them the choice to do it. We won't be doing that from a sort of technical point of view; that just means we're holding onto data we don't really need.

That's the issue I have with it. I think I my main concern is that I don't want this to become some contractual obligation for the contracted parties. For me, I just think - make it optional if you want but (unintelligible) with GDPR if we don't need to collect it just because it might be useful to some registrants, shouldn't (unintelligible) collect that. Thank you.

Kurt Pritz: Thank you, Lindsay. James.

James Bladel: Hi, Kurt. This is James speaking. And so speaking just on behalf of one registrar, or a family of registrars, I think it's fair to say that we would continue to offer this to some registrants in some markets in some regions. So, you know, it would be something that we would continue. And I think that the fact that makes us different than Lindsay is indicative of the diversity of approaches here and the different customer bases we're trying to serve, which is I think why I think lends support to the idea that this should be optional for registrars. Some will take it up, some will not. We probably will, Lindsay's company probably will not. And I think that it will - I don't think that

will be resolved more of a market response to that question as opposed to something that is handed down from ICANN.

I do, however, acknowledge, I don't know if it was Mark or Rod but somebody said that if it's optional for registrars then it effectively becomes mandatory for registries. I think that's correct. And I don't really see another way around that. So sorry, registries, I don't know if you have strong feelings on this but we'll have to figure out how to implement that probably not on this call or within the scope of this PDP but that handoff will have to be coordinated. Thanks.

Kurt Pritz: Does it have to be - so this will demonstrate my ignorance - does it have to be mandatory for registries? Could registries just hold up their hand and say, registrars, don't send us this piece of data? Or is that operationally impossible?

James Bladel: I think - to respond, Kurt, I think if a registrar wants to offer it and - that's a good question. I suppose if it were optional for a registry then that would say that essentially a particular TLD did not support that feature. Yes, that's something we could also look at. And it would probably result in a matrix of offerings where, you know, we'd have registrars down the vertical axis and registries across the top, the horizontal axis and you'd kind of have to figure out whether or not this function was offered per TLD per registrar.

And that not a bad thing, I mean, you know, we can't just kind of force everybody to operate their businesses in the same small box. I think that diversity and the broad spectrum of registrars and now TLDs in the last few years has been a successful - has been the hallmark of the success of this industry and its governance and I think that when we start to chip away at the edges and get everybody to play, you know, in the same room I think that we lose something as a community. So just my personal opinion. Thank you.

Kurt Pritz: Thanks very much. Mark S.

Mark Svancarek: Hi. I have a question for Lindsay. And you have mentioned this in the past and I've always been meaning to ask you about it. You say that you don't collect those fields and it's my understanding that the existing - the previous contract obliged you to collect those fields and the temp spec still obliges you to collect those fields so it sounds to me like you're saying that you willfully disregard your contract and the technical spec and that seems alarming to me. And it makes me wonder, if we come up with a consensus policy would you follow that given that your already not following your previous contract and the temp spec? It just is very confusing to me. Can you clarify?

Kurt Pritz: You know, so Lindsay, you're really free to answer but I know there's ongoing litigation about this. And so for me it's not necessary for you to answer because, well, anyway, so, Lindsay, if you want to go ahead, go ahead and if you don't, I think that's fine.

Lindsay Hamilton-Reid: No, that's fine. I hope you can still hear me. This is Lindsay. Just to answer your question, I've made it very clear on a number of occasions, I work for a German registrar (unintelligible) very specific. We will breach and any all contracts if it doesn't comply with the law. And I've always been very clear on that. So that's why we stopped collecting it. So there's a German court decision on that. We have followed that and that's simply all it is. Thanks very much.

Mark Svancarek: Okay, thanks for clarifying that.

Kurt Pritz: Is there a way - so I have a slight change of topic but before I get to that, is there a way to put the mind of those who want to make this a requirement for registrars, is there any way to put their mind at ease or put your mind at ease if you're one of them that a market-based optional in this case would be sufficient? So I'm thinking, you know, what if anything could be demonstrated or made demonstrable that says, you know, that technical contact will be continued to be offered by registrars who want to offer that service.

And I guess the same question goes to the contracted parties, you know, what if anything would put your mind at ease that it's okay to offer this, you know, to be required to offer this technical contact? So I think those are the two questions for me to try to get to agreement on this point. James .

James Bladel: Hi, Kurt. I'm not sure I completely understand what you're asking, if you're asking do I personally or other registrars believe that some registrars will offer this if it's optional, I think they will. However, I don't know that I can commit that, you know, just like any product, if it's not profitable, if it's creating risks, if it's creating you know, liabilities and costs and it's just underwater on all those points then a registrar will pull that product. So, you know, that's the - both the positive and the negative allowing this to essentially be - this question to be addressed by the market.

But I think my concern is, is that if it is mandatory then that opens up a whole bunch of questions about the risks and it, again, puts us in this dynamic where we are forcing some registrars to accept legal - exposure to legal risks for customers that they don't serve and products they don't offer. So I think we get upside down if we make it mandatory and that's my concern. I think it's a very high degree of likelihood that major registrars and including those who serve a specific targeted market, will offer this function because bluntly, customers are asking for it and so they will want to meet those needs. But I can't guarantee, you know, how many or for how long or what's, you know, there's no assurances that that is a permanent situation. Thanks.

Kurt Pritz: Thanks, James. Ashley, please go ahead. Happy birthday.

Ashley Heineman: Thanks. So Ashley with the GAC. So to answer your question in terms of what would alleviate my concerns - and my concerns being that I think that it should still be a requirement to collect this data if the registrant so decides to provide it. And it's largely from the perspective of the consumer, the registrant, and we're making a lot of assumptions that they're very educated

with respect to what offerings are available to them and, you know, that there are, you know, differentiated services that go down as far as the ability to provide a technical contact.

And I just - there just doesn't seem to be a lot of assurances from the consumer perspective that they're being given the option to provide this information because there are a lot of reasons to make this distinction and that through this contract we're basically unilaterally making that decision for them. So if there's a way to do that to sort of remove that concern I'm all game but I just can't think of anything.

And it kind of comes back to the point of, you know, if we need enhanced legal guidance on this question of what the risk is involved, we can, you know, kind of put this to rest and not have to re-jigger how, you know, what data is collected, what the format is in terms of, you know, sharing this information back with the registry and so on. It would be a lot simpler just to keep things as is and also, you know, be more in line with the expectations and the rights and the different things that are available to the consumer. Thanks.

Kurt Pritz: Right. To answer yours and James's comment, well they weren't questions but to respond to them, you know, it always has been a requirement and all registrars have always complied with that requirement so what's changed, you know, GDPR is what the change is. And so if there's no risks posed by GDPR in continuing this practice then it should continue I think. But if there are risks posed by GDPR then that changes things. And where we are, as Diane put it, quite a while ago, we're not certain about those risks and we're not even certain about how to get a good answer.

Okay. You know, I'm just going to - we need to talk about one more topic or one more subset of topics regarding optional. And I just want to get a sense from the room about other data elements that are optional. So there's organization is an optional field, phone extension is. I think fax is still an

optional field. So are these - in our discussion are these still being collected by registrars and will continue to be offered by registrars? And so our discussion here is limited to this information that's about the tech contact. Where are you guys on that?

Amr, I forgot what Purpose N is.

Amr Elsadr: Hi, Kurt. This is Amr. That's the purpose that was proposed by the Registry Stakeholder Group to collect data to validate a registered name holder's eligibility to register a name under a specific TLDs where, you know, which are not open to the general public, I suppose is a way of putting it.

Kurt Pritz: Oh I see. So I think - I'm trying to follow the chat too which I shouldn't be doing. So I think the answer that is kind of short though, right, because registrars routinely decide whether or not to offer those TLDs. So, you know, some registrars with special registration - some registrars offer TLDs with additional registration restrictions and some decide as a matter of business practice not to, so I don't know if I'm oversimplifying it because I have a penchant for doing that. But I think the answer to that is fairly straightforward and that it's optional for the registrars to offer that. Kristina.

Kristina Rosette: I was just - this is Kristina Rosette. I was just offering to answer whatever question Amr had with regard to Purpose N. And I would also note Amr, that I added the optional word - the wording "optional" in after the discussion that you and I and Milton had.

Kurt Pritz: Kristina, did I lose you or did you lose - you guys lose me?

Kristina Rosette: No, I don't - I'm not really quite clear on what Amr's question or concern is.

Kurt Pritz: I think there's two different issues. One is whether organization should be redacted and that I think - I thought that's what Amr was talking about. But I'm just talking about collection.

Amr Elsadr: Kurt, this is Amr.

Kurt Pritz: Go ahead, thank you.

Amr Elsadr: I was just answering a question on what other data fields might be optional for registrars and registries to collect, so I was just offering that as another example of that type of field that we're dealing with.

Kurt Pritz: Okay.

Amr Elsadr: I wasn't - yes, I wasn't at this time opposing it or being a proponent of it in any way at all, just mentioning that it's out there. I hope that helps.

Kurt Pritz: Thank you so much.

Kristina Rosette: Okay thanks.

Kurt Pritz: Hadia.

Hadia Elminiawi: So I was wondering what if the - like the organization field is a requirement so registrars are required to offer it to the registrants but (unintelligible) not mandatory so we make the publication of the organization field optional as an example. Would this like solve some of the problems or would this be like acceptable?

Kurt Pritz: Could you say that again, Hadia, I didn't quite hear you.

Hadia Elminiawi: So I was saying so what if we make, for example, the organization field a requirement, so registrars are required to offer it to the registrants but the publication is not mandatory so they're not required to publish the organization field. So the publication of the organization field would be optional.

Kurt Pritz: Thanks, Hadia. I think - so where I think we are on organization field, and I'm attempting to firm this up, is that the organization field is required to be offered by registrars, that it's optional for registrants to fill in. And we still have an open issue as to whether or not that organization field is redacted.
Thomas.

Thomas Rickert: Thanks, Kurt. I guess we need to get our thinking aligned across the group what "optional" means, because I think we have two different schools of thought here. So Hadia will violently disagree with me because I think she said earlier wherever data field can be populated on an optional basis that nothing that would require consent. And my thinking is that anything that you need - that you collect on the basis is something that you don't really need to perform the contract and that therefore in the light of the principle of data minimization that's something that would require consent.

And therefore I think we need to take a look at both the collection as well as the publication of the organization field together because even if the organization field data collection is optional, at the moment according to the language of the temporary specification, the disclosure of the organization field would be mandatory. And I think we need to build in two steps and, number one, require consent for the collection of the organization field where persona data is concerned; and secondly, to require an add consent for the publication of the data.

Kurt Pritz: Thank you, Thomas. James.

James Bladel: Hi, Kurt. James speaking. I had some difficulty hearing Hadia but I think she said that her proposal was that the registrars would be required to offer registrant organization but the publishing or redaction would be optional. I think that is something that we are saying we would support because I think that we have indicated that for almost all cases registrant org would be redacted, however, that we have certain situations and certain use cases

where customers have asked us to publish that. So I think that is compatible with what Hadia's proposing. And so I believe if I understood her correctly that we would support that. Thanks.

Kurt Pritz: Thanks, James. I'm just reading the chat. Ashley, please go ahead.

Ashley Heineman: Thanks. So from the GAC perspective, we would certainly, you know, support redaction for sensitive organizations that are articulated in the GDPR. But we see absolutely no reason, in fact, you know, we would oppose having the organization field redacted even, I mean, it would have to I think be really clearly articulated under what justification they could opt to not be published because, again, from kind of a consumer perspective, it - this kind of information, one, there's no protections associated with an organization name, which I think is, you know, it's not as complicated as the whole legal versus natural. We're just talking about the organization's name and there is - there is actually proven examples out there, in fact there's requirements within Europe already to, you know, provide organizational information including the organization name.

So it still hasn't been - I haven't heard a real justifiable reason to not publish this information as a general requirement recognizing that there are going to be some circumstances for special cases in which it would be redacted. So just wanted to get out there the kind of standing GAC position on that.

Kurt Pritz: Thanks, Ashley. Hadia, go ahead.

Hadia Elminiawi: Yes I would just like to note that the organization field is optional anyway so for organizations that actually don't want it to be out there they won't fill it in, it's simple. And (unintelligible) published or not, but anyway whether provide the field he notes that it would be - it could be - he's providing it because he wants it out there (unintelligible). Thank you.

Kurt Pritz: Thanks, Hadia. Go ahead, Diane.

Diane Plaut: Thanks, Kurt. I agree with Ashley's position in that I think that we're over complicating things here. There is certainly - when we're dealing in the legal versus natural persons, when we're dealing with email addresses concerning personal data that's one thing but when it comes to an organizational field I think that we're over-applying the GDPR. When we're concerned with organizational field 9 times out of 10, this is concerning legal entities. The chances that it involves personal data of a natural person is a very limited amount of times and those entity names have been provided under business licenses in which there is attestations which says that the information that you're providing is now used in the business context.

So as it stands I think that we have to be practical about the solutions provided and as Hadia and Ashley have stated, I think that we have to provide for not being overly compliant to a point of impracticalness in this scenario.

Kurt Pritz: Thanks, Diane. James, go ahead.

James Bladel: Hi. Thanks. James speaking. And not to belabor this too much but it is correct I think in the strictest legal view to say that the organization field is not granted protection the same way that personal information for natural persons would be and it's the legal versus natural issue. Here's the problem, however, we have a legacy database of about 20 years versus - with hundreds of millions of records where either correctly or incorrectly the organization field contains data.

And what that means is that if you have a redacted record but the organization field is exposed, but there's personal information associated with it that is redacted, that it is a fairly trivial matter to index the organization field against other data sources and to discover the information that is meant to be redacted, in other words, it is a link to personal data that is covered by GDPR and other laws and is redacted.

And so in this regard, the organization field becomes sort of elevated to a personal - a bit of personal data which it might not otherwise be if we were starting from scratch today with a brand new clean slate RDS system. So I think, you know, this is, you know, again going back to the issue of the reality and the practical terms to borrow a phrase from Diane is that people are using the organization field to peer behind redacted data and obtain personal data that should not otherwise be available.

So that's why we're advocating for the idea that it should be - its publication would be optional and only in those cases where it's very clearly the wishes of the registered name holder that a - that this data be available in a public database. Thanks.

Kurt Pritz: Diane, go ahead.

Diane Plaut: Thanks, James, for that. That's really helpful input to understand the business perspective and to really have the practicalities of it top of mind. The only thing is, is that I think that we also have to recognize that when laws come into effect the way that you apply them retroactively it's - I think that there's certain - there's a certain legal appreciation that you can't solve all problems that exist in the present system. So I think that you're going to have - there's going to have to become legally sound business solutions that have either the fact that we all know this Whois information that exists out there exists if people have collected it historically and are keeping it.

That can't be controlled and this is the same situation. There's going to have to be certain aspects to the business model that have qualifications at the bottom of forms or databases etcetera that say, we are functioning at a presently compliant level but any historical information we have (unintelligible) and warranties and, you know, limited liability in relation to. So I think there has to be workarounds that are practically applied because you're not going to be able to cover off on every single risk that exists.

Kurt Pritz: Thank you, Diane. Go ahead, Mark.

Mark Svancarek: Okay, I'm sorry, did you call Mark?

Kurt Pritz: I did.

Mark Svancarek: Assuming I'm next in the queue, sorry about that. Yes, well Margie's typing it into the chat, I think in Barcelona we talked about things like at the time of renewal if you're a legacy customer you ask them again. And until then, you know, maybe you purge it, maybe you redact it, until then that was a concept that was - that put out, I don't know if there - if that was actually a popular concept but it was something that we discussed.

Kurt Pritz: Okay thanks, everyone. I was wondering how to bring it home from here. You know, it's clear we need some additional discussion on the list. I'm just thinking so excuse me for doing that. But, you know, I'm thinking about asking for a show of hands but I think I know where we are on these issues. I'm trying to - let me think about how to frame up the issue to continue the discussion on email and maybe get it out in the next day or so and take it from there. So, Amr, we're at the end of our call so we're not going to get to the next agenda item today. Just reading the chat here.

So yes so I think I'm kind of stumped but we have to figure out how to sort of breakthrough where we are right now. So I'm going to review the chat because I haven't read it and try to hone the discussion about our different choices. It seems like we have like two or three different choices from which we could choose and see if we get to come agreement on those.

So I'm assuming Diane's hand is an old one. I don't know if we have any action items out of this, do we, Marika or Caitlin?

Marika Konings: Thanks, Kurt. This is Marika. I think we just have a couple, I'm just scrolling up and down. The first action item we have is in relation to topic of accuracy and proponents of accuracy, discussion to put forward specific proposals/changes that should be considered by the EPDP team. In relation to the discussion on Phase 2, leadership and staff have an action item to review the timeline and see how Phase 2 fits in there or needs to be fit in there.

And then the last action item relates to our discussion that we just had that the EPDP team is encouraged to further discuss this on the mailing list and focus on possible recommendations associated with the topic, that the team could consider. And if I maybe add to that, there are of course two topics that we weren't able to discuss today so it may also be helpful for those that have specific ideas on those, and again specifically focusing on what is currently in the initial report and, you know, what if anything should be changed based on additional information that has been provided or questions that have been raised for further consideration by the EPDP team.

Kurt Pritz: Okay great. Thanks, Marika. So thanks for the constructive discussion. I know we didn't get to an ending and, you know, we're at a bunch of issues where we're going to try to, you know, narrow some choices and see if we can get some movement between one side and the other. So I appreciate the time taken for the discussion and for the clarification of issues. And I'll take the time to go through the transcript and see if we can frame up just a choice or - you know, a couple choices for us. So thanks very much for being on the call. Have a great rest of the day. So long, everyone.

Terri Agnew: And once again the meeting has been adjourned. Operator, (Ed), 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