

**ICANN  
Transcription  
EPDP Team F2F Meeting  
Tuesday, 25 September 2018 at 17:45 UTC**

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(Gina): Okay. Can we have everyone's attention?

Man: (Unintelligible)...

(Gina): Can we please get everyone under one conversation? Okay. We're going to break now for the next three hours and go into a small group. I got somebody's attention. Okay. Finish that email and let's come back together. All right, so what we're going to do is we have one group that would like a little bit more time. But what we're going to do is go ahead and go through a couple of these and see how it works with us as a group. I think the goal here is to, you know, resolve as many of the issues as we possibly can.

I understand from my group A, Purpose A, that there's a few fundamental questions that may translate and be - also need to be answered for some of the other purposes. So I think the proposal is that we - Marika is sending around the revised worksheets with the scribed information in it, but we're also going to have it up here on the screen. And we thought we would start with Purpose A, if that's okay with everyone. And for Purpose A, the group, Ayden is going to walk you through just briefly summarize what the group has discussed and proposed and then we - Group A also had a couple of questions to flag for the large group discussion, okay?

And I'd say if we time maybe like if we could try to keep this within 30 minutes to try to wrap this one up, it would be great. But let's aspire for that.

Ayden Férdeline: Hi, everyone. This is Ayden. Can I just clarify something before we begin? So for the areas where we do have questions, should I management the queue? Will someone else manage the queue? How will that work? Or should I just do sort of a high-level summary of what we've discussed?

Woman: I think what would be great if you did a high-level summary so we just kind of get a read on the whole purpose and then we pull up the questions and management the queue over there.

Ayden Férdeline: All right, perfect. Thanks. This is Ayden. So at a high-level I think it would be fair to say that there was an agreement on a technical level that very few of the day elements that are on our sheets were required in order for the rights of a registered name holder to be established and to exercise their rights. But because it is possible to run a (THIN) registry, however there was disagreement in our group as to what the fundamental role of ICANN is.

And so that is, perhaps, the question that we need to have, is ICANN ever - it was suggested in our group that one of the questions of what we might need to have is ICANN a regulator, a quasi-regulator or what - why does ICANN even exist, because that flavors a number of the questions that we had here.

In terms of the lawfulness of processing questions, initially the group was of the view that (Adecco 61B) was the only one that would apply. But we did decide that we would like to consult with everyone around the table to make sure there was an agreement on that if we would feel comfortable relying on that.

There was a - one person who did - was at a position that we could not rely on (61B) because we are not - because ICANN does not enter into a contract

directly with the data subject and they were of the view that (Adecco 61F) was more appropriate. And so as a group, we also decided that if we cannot rely on (61B) and we must rely on (61F), then there would be a need for some kind of balancing test to be undertaken in order to determine whether the interest of - and freedoms of the data subject are overridden in any way.

We were of the view that there was no - that this purpose was not in violation of ICANN bylaws and in terms of question three, data required for the purpose of whom, we were in agreement that the registrar and the registry would remain there. Question four, "Is the processing necessary to achieve the purpose?" I touched upon this briefly a few moments ago, so there was the agreement that the (THIN) data elements - so essentially up until the gray box on the first page and on the second page names of DNSSEC, names of IP address, last updated WHOIS database.

We thought that they were necessary. But there was disagreement within our small group over the registrant fields, the admin fields, and the tech contact field. And so that is a discussion that we think we would - question five, I think there was some discussion over what was meant by transfer here. But we broadly agreed that no with the answer but there are conflicting views...

Benedict Addis: Sorry. Just on under four, we think - all agreed that fax number is not required even optional to prove your identity as the registered name holder. Can we (kill) it, please?

Ayden Férdeline: That's correct and thanks for noting that, Benedict. So we did have the agreement that we could remove two fields, fax and fax extension. And also we did have a discussion on registrant fields over whether state/province and postal code were necessary or whether a valid address was enough, because suddenly in some countries those are not necessary. However, there was not an agreement as a group that we even needed to have those fields reflecting that personal information.

For question six we had - which was with publication of data by the registrar or registree. There was a feeling amongst the group that the publication of selective elements would be permitted, but not all of these elements. And what those selective elements are, we did not reach a consensus around. And there was the suggestion that an additional data element may be needed and a unique identifier, whether that was only for natural persons or legal persons or whether this distinction is not important, we did not quite reach a decision on.

But the idea behind this unique identifier would be so that you could identify all of the domain names that are uniquely held by that one registrant, from what I understand. Question? Question?

Benedict Addis: I forgot to mention, I don't think it's contentious about the unique identifier. From a contract's point of view not proposing to - I think we're not proposing to add anything to contracts. I think there's a kind of don't go there feeling about that. So from a technical point of view, this sort of privacy of conscious - unique ID would be an email address and the most obviously privacy conscious or privacy respecting unique...

Ayden Férdeline: Thanks and I'm just going to quickly summarize the rest of what we have and then I'm sure we'll have some questions to break out into. So also under question six we had sort of the fundamental question of why we're collecting this data in the first place, is the registry intended to serve as some kind of ownership record of domain names? So that's the question that we need to have as a group.

There's also the question of, is it an ICANN purpose the mandate in any way the publication of this data or the - because the controller under the GDPR does not necessarily have all of the data. Number seven, the ticket sense. We responded in the affirmative because it is related to WHOIS which itself falls within the ticket sense.

Question eight, the data retention requirements. We agreed to quote someone that was a minefield and that it would vary by country, but broadly there was a level of agreement that it must go beyond the life of the registration for the domain name. But what that time period would be no agreement on but we thought two years sounded reasonable.

And for final question, additional information. As sort of highlighted before, there was a discussion over whether there should be a distinction between a natural and legal person, if so, would that require an additional data element. But I think we also agree that we could just add that to the parking lot for now. That is what we've discussed in our group. Thanks.

(Gina): Thanks for the summary, Ayden, and the additions, Benedict. Anything - before I come to you, Kristina, anything that the larger group - I mean, the group members want to add in or elaborate on? Okay. So, I'm going to go to Kristina. I think the two main issues that we need to cover are the legal bases and then the second piece is item six under the publication of data. So, Kristina and then I see Marc sort of and if you - so any - go ahead and get started.

Kristina Rosette: Sure. I'm Kristina Rosette. I was just hoping I could - if you could expand a little on the need to discuss the implications for natural or legal person in question number nine. Because I'm not drawing the connection between how - whether or not the registered name holders or natural legal person could have an impact on what rights are established and how they may exercise...

Man: Maybe we should clarify...

Margie Milam: So the way - we were talking about that in context of publication of data, number six. And so, because the GDPR has the distinction between legal and natural person, the feeling is that at least from my perspective that the publication would be appropriate for the legal person, but how do you know it's a legal person unless you've asked whether they're legal person. So

that's why you're - we're asking for the data element and then applying the GDPR, you know, scope.

(Gina): And just a gentle reminder to everyone to please state your name before you speak.

Marc Anderson: Marc Anderson. Looking at the - sorry, looking at what you put, you know, I understand you put undecided - the registrant, which I guess was kind of surprising to me because the purpose seems to be establishing the rights of the registrant. So I wondering if you could elaborate on that one. I'm not sure how you could establish the rights to that other registrant - if you don't know who the registrant is, which seems - you seem to be indicating you're undecided on it, so...

(Gina): Could you say which question number you're looking at?

Marc Anderson: Question four, I'm sorry.

(Gina): Thank you.

Margie Milam: This is Margie. I think that's - we - I think we put that as a parking lot issue, the question on whether the registrant has access to it, because I agree with your observation, but I think Benedict was the one that had a concern about why it couldn't - you couldn't put the registrant in as one of the...

Benedict Addis: I'm sorry. Just to be clear, Margie's response reflects question three where I asserted that the registrant cannot be - cannot have a purpose because they're not the controller. When we don't - we're not - as I understand - I think I'm right in saying we're not seeking to eliminate registrant collections for this purpose. I think I am right in saying that there was some debate on other fields, right? Would that be correct for the group?

Ayden Férdeline: Yes. I think - this is Ayden. I think the intent behind that comment which is to say that all of the registrant fields, there has to be a discussion over which of them are relevant. And it could be that they're all relevant, it could be that there was some modification, but it was just saying that on the first page on under fields name, organization, street, city and...

(Gina): So I'm wondering if we should tackle that issue. Oh, Lindsay, were you going to bring something else? And then, maybe I can ask - I think there's three issues for us to discuss as a group, one is the legal basis, two is this item four, the differing viewpoints on the registrant data, and then there was number six which is on the publication. So Lindsay, I'll go to you and then maybe we can decide on the right order to grapple with those other questions.

Lindsay Hamilton-Reid: Lindsay Hamilton-Reid, I was just going to talk about the sort of legal and natural person issue, because they obviously - we've got different viewpoints as a registrar for us to update our system to include that would be cost prohibitive. Therefore, we're not going to do it and everyone is then protected whether they're a natural or legal person. And I know that other registrars who'd be in the same boat.

You're also relying upon the registrant to take a box or whatever it might be and frankly they're not that good at the best of times. So even then you couldn't guarantee that you would have the right information and again under GDPR I wouldn't want to get a fine because we happen to publish the wrong thing.

(Gina): Park the legal versus natural? Yes.

Woman: (Unintelligible)...

(Gina): Okay. So we're going to park legal versus natural for right now and we'll come back to it. We're going to figure out when we're coming back to all of

that. So should we go to the legal basis first and the legal basis is originally as Ayden summarized, the thinking was B, but then there were questions about whether or not we needed to be under F. Stephanie, are you on the legal basis because that's - and I see other cards up. Are the cards up for the legal basis?

Stephanie Perrin: I'm actually back on the pickle that Benedict described.

(Gina): Okay. Okay, we'll come back to that. We're going to pursue the legal basis right now. Thanks for your patience. Does anyone care about the legal, Marc A? Thomas K? Great.

Thomas Brackey: B.

(Gina): Thirty second. So Lindsay, can I come to you because I think that you were the one who brought up or questioned the validity of B?

Lindsay Hamilton-Reid: Lindsay Hamilton-Reid, sorry. The reason I questioned B is because ICANN does not have a contract with the registrant. And, yes, I know Benedict brought up that, but (Thomas) was looking at some sort of inherited or obligation, but I did not feel that that was correct. Now, that's merely my interpretation. I thought F was actually more appropriate. However, it is open to (unintelligible)...

(Gina): Go ahead, (Thomas).

(Thomas): So now I have 59.5 seconds, right?

(Gina): Name. You got to state your name.

(Thomas): Yes. I'm (Thomas). So I think Lindsay makes a good point. When collecting the data for this purpose we need to look at what contractual relationship is concerned and it's the contractual relationship between the registrant and the

registrar. Yet, the question is, is it an okay requirement coming from ICANN to be put into the registrant contact to collect those data elements. Since we want to associate the registrant's data with the domain name, I think that's an okay requirement that ICANN can impose on the registrar's for the contract between the registrar and the registrant.

And therefore, you know, (61B) is to be construed quite broadly. So ICANN gives a contractual requirement to the registrar. I think that's a legitimate requirement, given the way ICANN wants to allocate domain names to registrants and therefore I think it's a (61B).

(Gina): Lindsay, back to you and then (Yol).

Lindsay Hamilton-Reid: Lindsay Hamilton-Reid, thank you, (Thomas), for that explanation. Normally, our contract work, but I do understand that. I don't necessarily agree that they all have to give it some more thought, dirty work for me. But as I say it isn't just about me.

(Gina): (Yol) and then Marc A, are you in the thread, in the queue?

Man: (Unintelligible) for the record. I just wanted to clarify one thing that - I want us all to understand very well that there is no reason we actually need to collect any personal data to actually run a domain system. You could register domains without any address information. It's a decision by ICANN as a policy to actually demand it. So it - that's where the whole question comes from. It's something that ICANN has decided as a policy that you can't register a domain without providing contact data.

(Gina): (Thomas) and then (Kurt).

(Crosstalk)

(Thomas): You have to get back in because there are a lot of other purposes that depend on this one. So I think if we are not clear on this one, we can forget about escrow, we can forget about the bureau. ICANN, other than other registries that might exist, other than other name concepts that might exist is ensuring with all of the (SSI) in the background that registered name holders get rights in specific domain names. And therefore I think, you know, the product that I - that is offered in the ICANN world is different than what's technically required to make a domain name work, right?

So the product that ICANN is offering is to associate a domain name with the registrant. And for that - that's basically the package that is offered to the registrar to be - to offer to the registrants and therefore it's part of all of the terms and conditions that registrars are offering to the registrants. They asked the registrants to offer the - to give the registrant personal data. And so I think it's - it makes total sense to make that a (61B). If we make it a (61F) it offers the opportunity to the registrant to object to that processing and then we're in the midst of the balancing exercise, so I think we're creating complications here without the need for them to be.

(Gina): I got (Kurt), (Kaboose), and Benedict. Okay, (Kaboose)?

(Kaboose): I'm sorry, someone said that we don't need to get this information for (unintelligible), and I totally disagree with that. We need to collect all information, all, which are required for the enforcement of the law, for the security and stability of the DNS, for preventing abuse of DNS. I totally and I strongly disagree with somebody who wants to make a selection that this data we need, these things that we don't need. We'll get to that aspect later on.

But speaking generally, that we don't need to take the data in general manner, I totally disagree. Once it comes to the point that which data to be collected, we will discuss and we will agree, thank you.

(Gina): Thank you, (Kaboose). I have Benedict and then Milton.

Benedict Addis: Benedict Addis, so I made a sort of highfalutin speech yesterday about why this is the - why A is the kind of fundamental purpose of ICANN. And then today in our group what we've - I'd like to sort of repeat to you what we talked about to justify this contentious collection, so this is the registering fields. The name option organization, address, phone, no fax, and then email address. And the sort of experiment I'd like you to engage in is imagine you've lost you access to your Gmail account, you've got a domain name and you're trying to prove to your registrar or to your registree that you are who you say you are.

And so - and I - and registrars do this and registry deal with this problem every day, so it's a problem that we can all kind of empathize with or have experienced. So how do assert that I'm me and you might imagine you could do that with your name by scanning and sending your registrar - your ID or you might show them a bill, you might, in the future, have some sort of cryptographic way to do that. I mean, with a unique identifier or they might just send you a token by email and you can prove who you are or they could phone you or text you.

But these seem like reasonable ways to assert ownership over a globally unique identifier and that's why I'm - and this is an advocacy and I want to be clear of this advocacy for collecting that data mandated by ICANN under its first party purposes within this ecosystem, not publication, just collection. Collection by ICANN itself. We're not talking about ICANN actually collecting this data internally, but it asked its ecosystem to collect...

(Gina): Milton and then Stephanie.

Milton Mueller: Milton Mueller, NCSG. I think Benedict makes a good point and it's one that I was concerned with. So it seemed to me that in the discussion of the entitlement to a domain name that we were conflating contact ability with ownership verification or validation. And I think Benedict is arguing that in

order to have verification of ownership you need some form of contact ability which may be a valid point.

But the thing to keep in mind is that in Group C we're also collecting all of this contact information, purpose of communication, and notification. So what data is uniquely required for purposes of A as opposed to contact ability which is part of C, maybe a lot less than you think.

Stephanie Perrin: Stephanie Perrin for the record. I originally raised my hand because I want to reiterate the point on question three, data required for purpose of whom. That is not a good question. It is unclear. It is not in compliance with the way data protection law works. It's - I'm sorry, whoever did it, I've forgotten already, blame it on my age.

What we're really talking here is data processing activities and these data processing activities involve certain actors. And clarity on this point would help us determine exactly what the point that Benedict is raising here. Maybe ICANN in its job as data controller should be demanding some kind of authorization codes for various processing activities that take place where it is beneficial to the registrant to have such an authorization code or such data so that they can prove who they are, it doesn't exist right now.

The rights of the registrant have not been factored into basically the ecosystem as clearly as they need to be and now under GDPR they have to be, so - but as long as we talk about purpose of whom, as he says, I'm back to the pickle point, the registrant's purpose is not part of our calculation, but processing activities may involve the registrant directly or indirectly. And this is really causing us to muddy all of the waters in these discrete pieces that we're examining. Thanks.

(Gina): Okay, Benedict, we're coming to you. Can you somehow reconcile the purpose C and the sort of maybe there's a narrower set of data needed for A and then this question that Stephanie is proposing that there's some type of

an additional or different data authorized code or something that protects the right or gets to the rights question in purpose A?

Benedict Addis: Stephanie, I think we - as a techie I would love the system of cryptographic assertions, challenging response. I signed something, I passed it to my registrar, they say, "Yes, you are who you say you are. Thanks." But globally we don't have such a system right now and I think as I've said to you yesterday on a different topic, this is politics with the art of the possible. And I think when we're drafting these policies, we should be really clear to not block off such future possibilities. And I - that's really - it's a really good principle, especially when dealing with kind of EU type law that we don't tie ourselves to particular data set, a particular technology.

That'd be really good - and that's why I think you've also said that you like the idea of a unique ID, something that - something you could assert, sign cryptographically. Milton, I guess my answers similar where we are. I feel that if we're in a - if a registrant is needing to assert or reassert their ownership, this is different to contact ability. This is almost receive ability, can you prove that you are associated with one of these tokens?

We're in a kind of - it gets really existential where in a modern world we're like - my identity is kind of ties my email address, but I might have changed it. My identity kind of - I've moved five times in the last three years, you know? I understand this. But we don't - apart from Estonians, we don't have a national ID card with which we can certify our identity. I just see this as (foxy) for ID.

So if you've got - and I guess, you know, if you've got a proposal for a minimization that wouldn't cut out people like me who move a lot or other folks that lose access to our email addresses a lot or their mobile phone number, where they're - in countries where there is import ability like - I - it just feels like a reasonable compromise for collection, not for publication. Stephanie, the last question about purposes, so purpose in - and I think

(Kaboose) was also - I don't know if he's on the line right now, is - this web purpose is just obviously the GDPR purpose, the registrant purposes only for data controllers. Registrant doesn't have a purpose in this sense.

I think the intention of (Thomas) was just to list where we might and indeed (unintelligible) was just to list other people who might have skin in the game as a controller. In other words, determining the data fields that worth for collection. I don't think we were trying to - all the drafters, we're trying to capture the whole ecosystem of controller processor, data subject. I'm sorry if I misrepresented you there. Thank you.

(Gina): Marc A and then I'll come back to Stephanie.

Marc Anderson: Thanks. Mark Anderson for the transcript. You know, I really - you know, I want to emphasize a couple things that I said earlier. You know, first - you know, (Thomas) pointed out that this is sort of a fundamental, you know, purpose, right? And so if we can't, you know, come to agreement on this one, we have - you know, we can forget about the other ones. You know, we really need to come to an understanding of what this is, you know, because, you know, fundamentally this is essential to the service that we're talking about.

You know, the service that we're all dealing with here is the allocation of a string to a registrant. So allocation and activation of that string in the DNS. All right, that is, you know, fundamentally the service that we're - you know, that is being provided to a registrant. So we have to, you know, we have - you know, when we're talking about a registrant being able to exercise their rights, that's fundamental to the allocation of the domain name. And, you know, I strongly - you know, I did the - I agree saying for the first time ever, that's so fun, but, you know, I think, you know, I really agree with (Stephanie)'s point there.

I think, you know, one of the things that's causing us be hung up is this question among data requirements for purpose of whom. Now, that continues to sort of befuddle me, it's like why is that a question here, I don't understand what we're trying to - what question that's trying to answer. You know, if we're trying to establish who the controller is and who the processor is and let's ask that question but, you know, I, you know, I - fundamentally, I just - I continue to not understand the question data requirement for purpose of whom and I think that's causing us to get hung up because, you know, at the top of this, it's ICANN purpose, (coordinate), you know, and it goes on to explain it and I think that's sort of a stopping - a stumbling block that's keeping us from being able to come to - I hope that helps a little bit.

(Gina): Farza, Stephanie, did you want to respond to that question? Is that okay if she responds to that question? Go ahead, Farza.

Farzaneh Badii: Just a clarification, (Thomas) can correct me if I'm wrong. When we came up with the matrix, we didn't have the purposes, and we were supposed to - so we didn't have the actors and we did not want to look at the purposes that were in temp - that can come up with purposes. What we wanted to do to do this exercise to then build the purposes, but the group decided yesterday to work on their already established purposes, and make modification to them, and then have this ICANN purpose on the top of the chart.

And then, that's why you see the question for the purpose of whom they're - which was previously for - to answer whose purpose is this for a collection which could have multiple answer. But now you're just working on ICANN purpose, so I think this question might - you might not just not answer it.

(David): Stephanie, do you want to change topic? This is (David) speaking, do you want to change topic or can we just quickly see we can close off that question of what we're dealing with question three?

Stephanie Perrin: Stephanie Perrin for the record. I actually wanted to respond to Benedict, just a small point that I - I'm not asking for a unique identifier, a shared secret would be fine for my purposes, so - and it can be an anonymous token. It can be all kinds of things. I agree, we don't have it but we're going to be getting it in various areas sooner rather than later, because of the, you know, crisis and security. So I think we should keep that door open.

In terms of this other topic, this is really mission-critical. ICANN is the controller. There are umpteen processes underneath it. The registrars are data processors. They may be co-controllers with respect to the client data, but they are processors with respect to their contracts with ICANN, ditto the registries, ditto the escrow piece that we did. So failing to, you know, acknowledge this and set it into a data map is just going to make this so painful. It's excruciating. Thanks.

(David): I wonder if over lunch when we have a break we can make a quick confab here to sort out this problem with question three. And it feels like it's redundant based on the purpose being on the top of the sheet. However, taking Stephanie's point into place like maybe we need to be having a question about, you know, naming the role here or purpose or processes or control could be helpful.

So those who want to have that conversation, let's do that over lunch. My inclination is right now question three is a little bit superfluous, because it really is about the purpose on the top. So (Gina) take it away in terms of the things left to talk about here.

(Gina): Okay. Let me see if I can just capture where I think we are. So is where we are legal basis is tentatively B that I know like Lindsay wants a little more time to think about that. On six, for publication, it sounds like - I'm sorry, it's hard for me to have everything together. On publication, that selective elements would be allowed and including the - some type of identifier for the registrant,

it might vary. We still need to figure out if it's a legal person or a natural person, but we are going to cover that.

And I think the part that I'm less clear about, maybe folks can help me out is in item four, is the processing necessary to achieve this purpose. The group seemed undecided about the other elements of the registrants, whether or not those data elements should be collected to serve this purpose. So I'm not clear where we are on that. Stephanie, (Thomas) - oh, and (Kaboose), I'm sorry. Let's go to (Kaboose) because I forgot he was up and then I'll come to Stephanie and (Thomas). And are you guys up? (Kaboose), could you go ahead please.

(Kaboose): Yes. Thank you very much. I didn't want to proceed to others (unintelligible) become - at the beginning of the queue. But I think from the discussions, I understood that sometimes the validity of the questions are doubtful. If you ask the wrong questions, you might have wrong answer, and that is misleading. I have an example of countries going to the source of the referendum every two weeks or every once. It happened at some time they raised the question and the vote will succeed, but then they found that the question was wrongly put to the public, then you have wrong answer.

So please after the lunch, when you want to proceed, kindly look and ask whether anyone has any doubt about the validity of the questions, and if there is no problem then you could look at the answers. Because I found that there are some invalid questions or part of the question are not valid. Thank you.

(Gina): Thank you, (Kaboose). Stephanie, to you and then I have (Thomas) in the queue.

Stephanie Perrin: I think I've kind of lost some of my thread here, but at - the reason why you want to distribute these things in different processing activities is it very much simplifies the task of delineating which data elements are necessary for which processing activity. Yes we have this massive list of data elements that the

registrars will be collecting on behalf of ICANN as the controller, but each - for separate processing activities.

So they may collect quite an intense set of data for data escrow. It's for the benefit of the registrant. They may collect a very minimal set for whatever is going to be the public. I hate to use the word WHOIS. And then there are other things that they collect for their own purposes. All of that has to be described in that layer of data processing activities and we start, you know, and I'm guilty of it myself when I see a massive list of data elements. Because we haven't delineated it in terms of each processing activity, what's needed for this, what's needed for that, I freaked out and intervene and say, "Oh, no, you don't need that massive list," and we're just going to continue chasing our tails on that if we don't take the step here.

(Gina): Go ahead, (Thomas).

(Thomas): I think for the purpose of allowing for the name order to exercise rights in the domain name, you only need the registrant data element, plus the domain name. So you will still have one or optional ones in the - for the data elements of the tech (C) and admin (C). I think that needs to go away. We have that covered in the other purpose. So I think that to perform - to fulfill this purpose, to allow for the registered name holder to exercise rights on the domain name, you don't need any additional data elements than those for the registrant. We have the optional collection of admin and tech (C) data for another - covered by another purpose. So responded - responding to the question as to what is necessary, I think, we only need registrant data.

(Gina): Is there anyone who can accept that, that we would include the - it's the registrar - if you guys could scroll up, it would be very helpful. So we would have the registrar, the registrant, not the tech and the admin, no fax, which Benedict is very excited about, and we would have then the core engineering data down below. Is there anyone who can't accept that, Margie?

Margie Milam: Well, I guess it depends on what the consensus policies and how they relate to the administrative contact and the technical contact. So, for example, you know, in transfers or in renewals, I can't remember if we had staff look at that. I think there was an action item early on to identify like from the consensus policies that currently exist that relate to the registration, right? So - because that's what we're really talking about, the registrant's right.

So in order to do a transfer, you have to email the administrative contact, and that - I believe is still in - it's still a requirement, then it is part of the registrar rights and it is part of this purpose. And that's just one example, so my action for the staff is to go through all of the consensus policies, identify where the registrar, and the tech contact is listed, and then we can at least have an education on, you know, this informed discussion on whether that fulfills this purpose or not or whether the policy need to change, because that's the other thing you could do too.

(Gina): I have Farza. Did you pass?

Farzaneh Badii: Farzaneh Badii speaking. I was just wondering about the data element, this - I think you had this stage and we're up there and it was highlighted, are we going to remove them or not make it compulsory?

Woman: The proposal was that in certain countries there is not a State or a postal code and so when it was not applicable, they would still be able to complete the data fields without those. So, yes, but we have to make sure that their address is complete because if not then a lot of their rights won't be asserted if they do not get the notification and stuff like...

Margie Milam: Things is Margie. Yes, that's what we were thinking that that address has to be complete, but if there's a place where they don't have a State or - you know, so...

Woman: Yes.

(Gina): Okay. So, Marc A, did you still have a comment?

Marc Anderson: I'm sorry. This is Marc A., I got tied up in a sidebar so I lowered my hand.

(Gina): So I think we're ready to move off of purpose A. I think the clarifying questions that the group brought to you were the legal basis. Oh, (Thomas)?

(Thomas): Yes, I'd like to discuss the data retention questions a little bit because I think that we will not get away with just saying that two years sounds okay. We've received feedback from the European Data Protection Board. They said more or less they can't speak to that without any further rationale and I think it's for our group to come up with the rationale as to why the data doesn't need to be collected for three months or five years or whatever.

So I think that we should probably make a distinction between the retention period required for the registrant anyway, because of statutory requirements to retain data. The question here is what is okay for ICANN to require as a retention period. And I think that there's a hook in - I'm not sure whether anyone is listening in this - at this stage, I think that we have a hook in the transfer dispute resolution policy where there's a one year time limit for bringing up claims.

So I think that, you know, ICANN can probably justify the retention for one year beyond the deletion of the domain name in case transfer disputes needs to be resolved.

(Gina): Great. Who wants to speak to that? Lindsay, yes.

Lindsay Hamilton-Reid: Lindsay Hamilton-Reid, yes, we've discussed this quite extensively about retention times, because each country got other legislation which will mean that we have to hang on to it like in the U.K. for tax purposes, we need to hold on to data for seven years. Like invoices - let me finish, so,

yes, we need to come up with a number, but it's not an easy thing to do even the legislation doesn't give you a number that's for as long as necessary.

So, yes, we talked all about that and tried to find kind of - I think we came up with two years as something that would be helpful, but obviously that's (referring) to the group as open - absolutely for discussion. It will depend on each country or what sort of - what other legislation is in place.

(Gina): Okay.

Lindsay Hamilton-Reid: I think it would be wise to start with a minimum maybe, but that's all we can do, not really going to say to everyone, "You got to keep it for this length."

(Gina): Thanks, Lindsay. So I'm just going to remind everybody time check that we need to move through our comments pretty concisely and I'm going to review the queue because I want to make sure I've caught everybody. Hadia, Marc A, (Kurt), (Kaboose), and Stephanie. So we're trying to solve this particular problem around data retention. I'm going to ask that you refrain from bringing in a new topic. Data retention is on the table. (Hadia), thanks for waiting.

Hadia Elminiawi: Hadia Elminiawi for the record. So speaking to this topic and because the GDPR requires the retention of the data for the necessary amount of time, my question would be to ICANN, why do you need the data to be retained and then if we have a - we have the reasons, we can actually say for how long we need the data.

(Gina): Thank you, Hadia. Marc?

Marc Anderson: This is Marc for the transcript. You know, generally, I agree with Hadia there. You know, you get - you know, the - you know, and the question of retention, you know, you have to be able to answer the question of why. If we can't can say why it needs to be retained then we probably shouldn't be retaining it.

But I think (Tomas) in his opening statement gave us, you know, gave us a starter for that. You know, he suggested some, you know, some answers to that question of why.

So, you know, I think there are some case - you know, there are some arguments to be make and I suspect having talked to Stephanie before, she's going to state some of those later. But, you know, there are cases to be made for retention of the data but, you know, we have to be able to answer the question of why, otherwise, you know, there isn't - there's isn't a reason to retain it, so you know there needs to be the why answer in there.

(Gina): Thanks. (Kurt), why and proposals is what I'm looking for.

(Kurt): Right. And so I agree with what's said and I propose that the answer to this question might be words rather than a number. Well, we're creating a policy so in our group for that escrow we said, "Well, we're not sure the number, but we know it has to be retained for long enough that we're assured that if a successor, a registrar is identified that he - that registrar has the data well in hand and, you know, the other data can be - then the other data can be deleted.

So I think for us I don't want us to do the research task of then converting that to the number to looking at all of the legislation that might have to be complied with just - with the reasons in there and then the number calculation can be - for the implementation.

Woman: But we still need ICANN to answer, right?

(Kurt): That's one of the whys.

(Gina): (Kaboose), I'm going to come to you.

(Kaboose): Yes, I don't think that the data retention is coming from the (sky as) now we have to buy. It is very strange that some people are saying that why we need to retain the data. But I don't want to comment on that. The issue that I want to comment is that for how long, too short, too long or something, and it should have some logic. We should not have a sort of the gambling as we did for the IoT and (unintelligible) for six month, for one year, 45 days, and finally, okay, let's take something between (unintelligible) or about the ICANN board is going to decide to reject the GAC advise whether it would be 50%, 100%, 70%, okay, let's say 60%.

We should have a rationale why yes or no and then if yes for how many months or how many years, and the reason and rationale behind that, but not (somebody essential), thank you.

(Gina): Thank you, (Kaboose). Let's see. I've got Stephanie, and then Benedict, and then if any of you can offer some solutions, we have Kurt's proposal on the table and I know there's questions about the - whether or not we needed time or just the words to describe.

Stephanie Perrin: Stephanie Perrin, ICANN as a data controller only has authority to opine on this matter with respect to the data processing activities that are under its control, okay? So I like Thomas's number. The only thing is - it cannot concern itself with the regulatory requirements in each country, what it takes to run a business in each country even it cannot opine on the matters of what data you have to retain under the local data protection law. You may have to keep it for two years somewhere, because the registrant has to exercise their rights, that's what Marc was alluding to.

So I think one year is adequate, just glancing at the requirements here in terms of only ICANN controller - control of its processing activities. I suggest we go with that, because it makes - it's a nice number and it shuts the matter down. Thank you.

(Gina): Benedict?

Benedict Addis: One year.

(Gina): Great. Margie? One year?

Benedict Addis: Should I elaborate quickly? No. So the two-year number was based on this conversation with my then colleague in the (PSWG), (Bobby Flame), "Hey, what do you think about three years for the state retention thing?" "We do - in the U.K. we do two years." "Okay, it seems reasonable." Right. So that was the entire justification for that. There is no justification for that data retention spec in the 2013 (RAA) other than that conversation. I want to be really clear about that.

So on that basis I think it's a really bad idea to send ICANN stuff on an exhaustive search of all policy because we will come up with kind of dust in our hands and thus I agree with Stephanie, we should base this on verifiable claims, and that's why a year, it seems that we've got a reasonable assertion for that under the transfer disputes policy. There would - the point - excuse me, the point that was made that was most convincing to me was there is a necessity to keep some data to resolve disputes later, so it seems reasonable. Thank you.

(Gina): Can I just ask is there anyone who can't accept the one-year data retention minimum? Anyone? Yes. Okay, there's multiple people. Okay, I'm going to go back to the queue. I just wanted to get a quick poll.

Hadia Elminiawi: It's not that I don't accept this, it's just - you know, based on what do we accept or not accept, so we need to know why the data is required to be retained in order to come up with a number. So I - it's not that I don't accept, I don't know on what basis should I accept or not.

(Gina): Thank you. I'm going to go back to the queue. I have Margie, Georgios, and (Thomas), and if you could try to answer Hadia's question I think that would be helpful.

Margie Milam: A question on why it's retained? Okay. So I have a couple explanations. One is there's an erroneous transfer or deletion, the registrant needs time to be able to identify it, and you know assert their rights. Another one is in order to assert their rights, sometimes they'll have to actually sue under the contract, so there's the contract statute of limitations which I believe is normally higher than one year, which is one of the reasons why it should be higher than one year.

And then, I think there was a - cybersecurity, I think, Marc you raised that one. I don't - I'm not familiar with what you were thinking about those. Anyways, I was trying to answer the question of why there's the reason for it. And so from a contract perspective it's a registrant right thing, right, it's to enable the registrant to protect its rights and exercise its legal remedies against the registrar should there be some disagreement on whether something was to be transferred or deleted or renewed.

(Gina): Thank you very much, Margie. Georgios, thanks for waiting.

Georgios Tselentis: Yes. Georgios Tselentis from the GAC. I just want to say that we have to go back to the purpose and speed of the - of what we are trying to do here. We are trying to - how much the data are retained in order to protect the rights of the registrant. If we have now clear numbers through the contracts regarding this period, it's fine. Otherwise, I would say that (Kurt)'s proposal to put it in a generic language would suffice.

However, I think there are also provisions that we are making. The retention is a GDPR but it's also - any law that has another maximum period which goes - a minimum period which goes beyond what we are going to decide is we have to obey to that. So this - we should not forget about that.

(Thomas): So I think that...

(Gina): Please state your name.

(Thomas): It's (Thomas), I'm sorry. We need to - my idea was to base this on the stipulations of the transfer dispute resolution policy. So whatever - I think it was one year in there, but at least that's the - that's a policy where a registrant has an interest in asserting the rights in the domain name if something went wrong with it, right? So - and that's - and Georgios, I think you're spot on, we need to talk about this very purpose.

And typically, you have to delete data once the purpose is fulfilled and you don't need it anymore. So let's take what - my suggestion is to take whatever time limitation is in the transfer dispute resolution policy. Other than that for the registrant it might be a completely different thing. So if I were a registrant I would keep the data until (there were) claims against me for handling the domain name incorrectly are barred by the statute, that can go up to two or three years, right?

But that's nothing to do with what ICANN should govern in this respect. Also, payment claims and all of that, you know, but that's not for us we're just looking at the ICANN purpose of associating or ensuring that the registrant can exercise their rights with respect to the domain name.

(Gina): Okay. Hadia, did that help answer the question on the whys? Okay. So I'm going to go to (Ashley) and then I'm going to urge us to see if we can close on this purpose A and maybe we could do M next. I can't remember the status of M, but the dispute resolution which would be a nice follow-on to this. (Ashley), thanks for waiting.

(Ashley): Yes, thank you. (Ashley) representing the GAC. So just out of an abundance of clarity, I - I'm - my assumption is that this is understood, but we're talking one year after the registration periods. Okay, thank you.

(Gina): Bring us home in 30 seconds. I'm just (unintelligible)...

Alan Woods: Yes. Just - in - I'm sorry, Alan Woods. Just to add to (Thomas') point, that point is absolutely right. It's where is ICANN needing to have that data or - and for how long do they need to base on their policies. But what I'm going to say and throw the cat amongst the pigeons in this, I'm sorry, is that it would be really helpful if ICANN were the people who started telling us how long they needed to retain the data as - at, you know, organizationally, how long do you need to retain the data, why are we having this conversation, you know?

(Gina): Benedict and then I'm going to check in on everything.

Benedict Addis: The policy says 12 months. Thomas was right. So as a matter of hygienic drafting I proposed the text that we say retention as specified in the transfer dispute policy which is currently 12 months. So we're not - so we allow ourselves the flexibility to change. I mean, does anyone hate that? So the text says, "Retention shall be at most or the length of time specified in the transfer dispute resolution policy which is currently 12 months."

(Gina): Yes, (Alex).

(Alex): So I think that's good but can we do a hybrid of (Kurt)'s idea and what Benedict just say, can we say 12 months based on policy or requirements per law, local law.

Benedict Addis: (Unintelligible) contract. You don't need to say it, because it may say longer it may say shorter. You can't always (trump) it.

(Alex): Okay. So we're assuming, this is Alex, we're assuming that - so it will always be - the time is will always be lawful.

Woman: Absolutely, yes.

(Gina): Okay. All right, so purpose A data element, legal basis is tentatively B until we hear something new. Lindsay is thinking about it. On item four which is the data which fields are relevant, we're doing the registrar, the registrant, and then that other component around the kind of - we call them the engineering specs in our group, but we need to flag the action item to check on the admin category, and the tech category, and the right piece to see if that does the - feedback into these consensus policies.

On the publication, where do we end up on publication? Where did we end up? Oh, I set the publication - oh, my God, everybody - can somebody remind me where we are in publication.

Man: Question six.

(Gina): Oh, this is where we're at. That's right. Thank you for putting that up there. The publication that there would be - it would tentatively allow for the - the person, either a legal person, we need to determine the field or if it's a natural person and unique identifier, but that's going to be part of the larger conversation around unique legal or natural persons, and then - so that's where we are on the publication. And on the retention, we would do the amount specified in the transfer dispute resolution process which is currently 12 months.

So can we pass this one forward? People, do you have your nametags up for a reason? Everybody's got their nametags up for a reason. Okay. (Chris) - (Dan) and Kristina. (Dan), do you want to answer potentially a clarifying question or...

(Dan): Yes or just to offer - I mean, I heard ICANN brought up a couple of times and, again, to clarify for everybody, there's - the bigger ICANN, the ICANN purposes, and there's ICANN Org, I think the reasons why ICANN Org would want to see retained data on the prior registrant is probably just a subset of all the reasons why registrars might need to hold it. I think we're available to answer any questions that people are kind of quick firing off, things they'd like to hear, it'd probably be best if we get like a, you know, a precise question formulated and then that could go in - we've got like a system for answering written questions, we could come back with like written response, here's the ways ICANN Org might need the data, but again emphasizing the big ICANN might have broader reasons for why they want registrars to collect and retain data beyond just what ICANN Org might need to see that data for. Thanks.

(Gina): Who could frame up that question for ICANN Org? Do someone want to do that? I just need a hand and then we'll note it in the action items. I think Alan wants to do it. Okay.

Man: (Unintelligible)...

(Gina): I can tell you really you want to do it.

Kristina Rosette: Sure. Kristina Rosette, Registry Stakeholder Group. I just wanted to make clear before we moved off of A that in the context of a discussion of ICANN's purpose for A that the registries are in agreement with Lindsay's position, that the proper basis is (61F).

(Gina): Okay. So we're going to have to come back to that, it sounds like. Okay. All right, it's noon. I don't know if lunch is here. Should we - lunch is here, we're going to go on to another one. Should we do M?

((Crosstalk))

(Gina): Who did M? Is M ready?

Woman: I'm sorry. It is ready except this conversation that we've just had about (61B) and (61F) has made me realize at least that - well, anyway, let's go to (61) - let's go to M and I can walk through it, and I can highlight where I think I would like to revise at least my input. All right.

(Gina): What about if we grab some lunch and we do M. And then we can take a longer break. We'll take a break after M, but we can eat during M and then take a break, no problem for those who doesn't want to do that. Okay. Okay, I think people want lunch, so we're going to take a half hour lunch break. We'll do M and then we'll have another - we can have another break, okay? Thanks everybody for A and the A team, excellent.

Man: Well done, A team.

(Gina): Yay.

END