

ICANN Transcription
EPDP on the Temporary Specification for gTLD Registration Data
Tuesday 30 October 2018 at 1300 UTC

Note: Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. The audio is also available at:

<https://audio.icann.org/gnso/gnso-epdp-gtld-registration-data-specs-30oct18-en.mp3>

Adobe Connect Recording: <https://participate.icann.org/p8y7q0pni87/>

Attendance is on the wiki page: <https://community.icann.org/x/ow68BQ>

The recordings and transcriptions of the calls are posted on the GNSO Master Calendar page:

<https://gnso.icann.org/en/group-activities/calendar>

Amos: The recording is (unintelligible) started. You may begin.

Nathalie Peregrine: Thank you (Amos). Good morning, good afternoon, good evening.

Welcome to the 21 (GNSO) (EPDP) Team Meeting taking place on the 30 of October, 2018 at 13:18 ET. At the interest of time there will be no roll call.

We'll be taking attendance by the Adobe Connect Room (only). If you are therefore only on the telephone could you please let yourself be known now.

Kristina Rosette: Hi, Kristina Rosette. I'm waiting for yet another set of updates to download so as soon as my computer is usable I will be on Adobe but in the meantime I'm just on the phone, thanks.

Nathalie Peregrine: Thank you so much Kristina. It'll be noted. (Unintelligible) we'll only also be on the audio for this call and we have a note that (Emily Taylor) will be

joining the call late. In the meantime, received apologies from Ashley Heineman and Georgios Tselentis from the GAC, Julf Helsingius from the NCSG, Leon Sanchez at ICANN Liaison. They formally assigned Laureen Kapin, Chris Lewis-Evans, Tatiana Tropina as the (unintelligible) for this call until remaining (date) for absence. During this period the members will have read only rights and no access to conference calls the (unintelligible) posting rights and (unintelligible) conference calls until the members return dates.

As a reminder (unintelligible) often at this time must be formalized by way of a Google Assignment form until link is available in the agenda part on the right-hand side. Statements of interest must be kept up to date. If anyone has updates to share, please raise your hand or speak up now. If you do have modifications to make in the future please don't hesitate to email the Genesis Secretary. All documentation and information can be found on the EPDP Wiki Space with (unintelligible) task and view only Adobe Connect room for non-members to follow the call.

Please remember (unintelligible) to state your name before speaking. All recordings will be circulated on the mailing list and posted on the public Wiki Space shortly after the end of the call. Thank you ever so much and over to our Chair Kurt Pritz.

Kurt Pritz: Thanks Nathalie and hi everyone. I hope you made it back safe and sound or that you're traveling (unintelligible) somewhere. And thanks very much for all the time spent on the (CP-ICANN) Meeting while others were seeing the sights.

The agenda calls for a recap of the ICANN Meeting and you were all there so I don't know how much is necessary. I think on Monday we made some significant and really meaningful progress on Purposes A, B and C -- which are I think the most important. And, you know, I think it took us a little bit longer than we expected so we worked on the Purpose itself a lot and not on

the rest of the Workbook so that's why we're sort of (settled) with those reviews right now and that was on the Saturday session.

On Monday I think the public session went really well and I don't know if anybody wants to contribute any feedback that you received either verbally or written from others but I received positive feedback. And one comment really went to why there were no questions right away when we finished and that was because the audience was really still taking in all the information that was receiving and the amount of detailed work that occurred. So, I think that was a good sign.

On the next meeting -- which I think was on Wednesday. I think, you know, we made some good progress on the Small Group session. So, but I think there's still a little ways to go there but that went okay. And then on the Thursday session, you know, I kind of put it on myself that we discussed certain (data) elements for so long and we should have (wrangled) back.

And in fact, even before that session I had talked to, you know, I had conversations with some people that recommended that I work a little harder to (funnel) the discussions so I'm sure many of you would be happy to hear that. So, I'm going to try to do that, to get, you know, one set of comments from everyone on an issue and then stop and pause and see where we are on the issue before going around the table two or three more times. So, if I stumble, I'm a little bit clumsy in that, please let me know.

So, that's the ICANN Meetings. Does anybody else have any inputs or comments they want to make about that? So, on the face-to-face meeting I got a lot more feedback on my email than I had planned. So, you know, to me personally, you know, January is almost three months away and it seems awfully far even though it's on the other side of public comment and what I'm also finding out is that people have conflicts all over the place -- there's meetings in December, meetings in January, so somebody suggested we do a (unintelligible) call and we're just settling on the dates for that. We'll get that

out right away about when people are available and then you know, we're going to pick the dates when the most people are available. We plan to have the meeting outside of the United States but other than that we're going to have it in the cheapest place. So, that's - I don't have really any further update on the face-to-face planning but a lot of that is going to happen in the next couple days.

Review about (Standing) Action Items, do we have a list to put up? Is Marita or Caitlin available? I think what we're going to look at is Marita's - essentially Marita's email. Yes, so Marita or Caitlin can you talk to this or would you rather me do it.

Caitlin Tubergen: This is Caitlin. I can speak to it.

Kurt Pritz: Okay, great.

Caitlin Tubergen: So, Action Item 1 is completed as you can note on the document in front of you. Action Item 2 was for each - all (GDP) Team Members to express their constituency's views or proposed edits to the Small Team 1 responses to charter questions and preliminary recommendations and as you can see that relevant link is in the document and it's also posted on the Wiki. Similarly, each group was to express their views or proposed edits with the revised responses of the Small Team 2 charter question responses by Monday -- which was yesterday. And each group was to review the latest versions of all of the Data Elements Workbooks and flag any issues that need to be reviewed prior to publication of our initial report by Friday November 2. And I did want to note on all Data Elements Workbooks on the Wiki, you can find the clean version for the ease of your editing but also the redline version -- which shows all of the edits staff made so that it's clear to you what is new language and what was the original language from the group.

Additionally, a document was sent out -- I believe it was last Friday or last Thursday -- and that was a note about the responsible party's overview. That

document is also posted on the Wiki and that's just to confirm that the team agrees with the characterization of Controller, Processer, et cetera. And all of those are noted in the Correspondence Data Elements Workbooks however this isolates the responsible parties so that it's easier to review. And we did want to note of course that staff is behind the scenes working on populating the initial report and so timely review of these items is really critical so that we can get you the draft of the initial report for review before it's published. So, thank you Kurt, back over to you.

Kurt Pritz: Okay. And I know these items are somewhat tricky to coordinate because we're asking not for individual contributions but contributions from each group so that's important. And to the (degree) the advice is really specific that essentially a redline or suggested (tax) I think that's important too and as Caitlin noted that the work is being taking out of the Workbooks and put into initial reports so we can see what that will look like. And that's happening right now so that doesn't mean as we receive input we won't be able to continue to amend the initial report but I think it's really important that we get to see what the initial report looks like because then I think, you know, the light bulb will go on with regard to how close or how far we are (away).

So, that's essentially that. Do you want to put the agenda back up? Is it over here on the right?

Kavouss Arasteh: Hello, Kurt. Do you hear me Kurt?

Kurt Pritz: Yes, I do.

Kavouss Arasteh: I am (unintelligible) just to let you know that I am not in the Connect. I'm just in the audio (bridge). Thank you.

Kurt Pritz: Thanks very much Kavouss. I think that's - you know, I had another update but I can't remember what it was so we're going to let it go. So, this is - Milton go ahead please.

Milton Mueller: Hello, can everybody hear me? This is Milton Mueller.

Kurt Pritz: Yes, we can.

Milton Mueller: Okay. So, I just wanted to let you know that despite the request for extra time we pretty much have - know what we're going to say about Small Team Report Number 1 so I just thought I'd float the basic ideas here and then we can send in the redline text that we're proposing after it's approved by everybody but some people were still travelling as of yesterday so we don't have a formal stamp of approval yet but it's pretty clear where we want to go with this.

So, one of the things we wanted to emphasize is that when we talk about the risk of trying to distinguish between legal persons and natural persons, we don't think a main risk has been stated to us and I think to many of the contracted parties. The main risk -- and I quote -- is that the difficulty in distinguishing between the two at the point of registration could lead to the unintended publication of the private data of many natural persons. That to us is the main risk and then there's also the problem of the legal persons who designate natural persons as a contact but to us as secondary.

The other key change we want to make is that under the Recommendation bullet points, currently it reads, "the distinction (view) of national persons is useful and necessary for (GDPR)." We are quite convinced it's not correct. We want to say that, "the distinction exists under (GDPR) and some other data protection laws," but there are challenges in making this distinction in the context of domain name registrations as well as the potential implementation of any new functionality that would apply. So, we are proposing a very important change in that recommendation.

I'm not sure about how this will play out in our own group but we are considering deleting entirely the bullet point that starts with following the

receipt of the research (EPDP) team will explore in a timely manner how the distinction can be made because that bullet point basically assumes that we will be requiring Registrar's to make the distinction which we're pretty sure is not going to be a consensus recommendation. So, basically that's our take on Small Team Number 1. We can send you a link to our Google Doc or we can I guess try to put it into a Word Doc, whatever is more convenient.

Kurt Pritz: Thanks Milton. I think sending it in either form will be fine and I'll just -- without opening the discussion on this -- I'll note that I remembered that James Bladel was passed with including the risks associated with making that distinction. So, if you're first item wasn't already included, it will be. And then I don't want to talk about this topic now because we'll wait for everybody's input and then we'll - yes, get everybody's input and then we'll have some sort of (unintelligible) document. So...

((Crosstalk))

Milton Mueller: So, what is the proper method to turn in input? Is it just to sort of an overview description like I just gave? Is it a marked-up document? Is it on the mailing list? Is it in Google Doc? What do you propose?

Kurt Pritz: Yes, so I would email in a redline of the document.

Milton Mueller: As a Word Doc.

Kurt Pritz: Yes, that'd be fine. You know, include, you know, send it to the whole list and, you know, include your rationale as you described it or flush out what your reasoning is and that's (unintelligible) - I'm answering Milton's question but with everyone not just understanding what changes are requested but why will be really helpful for all of us and deliberating over email.

All right, so the - let's go back over here. So, the agenda for this meeting is really kind of the Kristina Rosette show, so I'm glad she's fully in the Adobe

Connect room. The first document to be discussed is M, is Purpose (N). So, we have two Purposes we want to discuss today, Purpose M -- which has to do with dispute resolution and Purpose (N) -- which is a new Purpose that was created by to take into account registrations specific domain name registration restrictions. And so, I think the - well I don't want to think...

Kristina Rosette: Kurt, it's Kristina. Can we go ahead and start with Purpose M and I'm actually going to hand off to (Diane) because she has had a more recent opportunity to provide her input on the comments that I had circulated and quite frankly Purpose M is I suspect a much greater in interest in value to the (IPC) and the (DC) and the contracted parties at this point. So, I think it would really only be fair to give her the opportunity to lead. Thanks.

Kurt Pritz: That would be fine. And I assume you were saying, M as in Micky. So...

Kristina Rosette: Correct.

Kurt Pritz: So, I just want to point out some of the issues here. One, is you know, whether we wanted to include dispute resolution processes that aren't (UDRP) and (URS) and so that was one issue for us to decide. Gosh I went over these this morning and went over some of the other issues. But the other issues have to do with legal bases I think for these. So, those are some of the primary issues. But (Diane) do you want to go ahead? So, I am not looking at the Adobe Room anymore but okay, there it is. There's the document that, you know, I choose to look at a full size on my laptop. So, (Diane) welcome.

Diane Plaut: Hello?

Kurt Pritz: Hi (Diane).

Diane Plaut: Hi, Kurt. Can you hear me?

Kurt Pritz: Hi (Diane).

Diane Plaut: Hi, how are you? I am pleased to discuss this. I circulated it just recently my update to the group and Kristina unfortunately said I'm trying to throw her under the bus in her words but certainly that would never be my intention. We didn't have the opportunity to meet at the ICANN meeting which was unfortunate to no one's fault for scheduling reasons and since then she circulated her document without first consulting me -- which is fine. We are all busy. And then I only got it late yesterday and had the obligation to circulate it to my team.

I only made very minor changes so in fact I certainly am not looking to throw her under the bus. We're in alignment on most of the issues and I've just made minor additions. So, I'm pleased to go over those and work with Kristina together to explain them to the group. So, happy to do that. I know that Marita is trying to put something up.

Marita, is it possible to make it a little bigger?

Marita Moll: (Diane), this is Marita. You can zoom in yourself, everyone can, by using the Plus you can make it bigger or smaller as needed. And this is the version that you circulated so it should have your comment as well in addition to the ones Kristina provided.

Diane Plaut: Okay, so Kristina feel free to jump in at any time to collectively be able to explain the changes. We had decided that we would use the word incoordinate, operationalize and facilitate policies for resolution of disputes regarding and relating to the registration of domain name. There was a desire to put in the clarity of the wording as opposed to the use of such domain name for data protection purposes and we're fine with that.

We added the additional dispute resolution mechanisms that were not originally listed because we discussed the fact that there really was no bases

for not listing those and they're useful mechanisms that should be included. So, that's how we came up with this proposed Purpose description and we also added the wording, for future develop domain name registrations relating to dispute procedures. So, we feel that this is a reasonable Purpose that covers all bases. Kristina, would you like to add any comments on that?

Kristina Rosette: No.

Diane Plaut: Okay. Okay, good. So, and then basically for the Purposes based upon the ICANN contract, we specifically went through identifying the bases under the lawful practicing under 61B with respect to (URS) and (UDRB) for Registrar's because we went through the actual breakdown of what technically happens and Kristina was quite helpful in being able to articulate that in breaking down the Purposes in relation to 61B separately from 61F when it comes to (RDDRK) and (PDDRK) and so that's why there's the different distinction of those lawful bases.

And then I simply added the need for - right now ICANN Org has in place with the (UDRP) and (URS) providers only (MO) (use) as (Barry) described and if you look online and we feel that in relation to modern data protection laws that that needs to be updated for purposes of the security of any personal data that's transferred and so that there should be a legal recommendation that's made in relation to this Purpose to the create and implementation of data (protection) agreement as well as model clauses within a more traditional constructive or contract in relation to regular data (protection) procedures and under most data protection laws. So, that was a legal recommendation that I then added for the end of this document that (hadn't) been brought up before.

And that's basically it. I mean, we haven't gone into - we certainly don't think this is in violation of ICANN's bylaws. It's part of the mission statement in relation to G1 and G2 and to support the resolution of disputes regarding the registration of domain names. And then we believe that there are picket fence

consideration which are supported in (facts) and relation to (unintelligible) resolution of disputes relating to this Purpose as well as what I just added for specificity and clarity is that the - to make this a cohesive document is that the Purpose and any processing as noted is in the collection transmission when you go to the breakdown of the Data Elements by the different parties respectively that that's also within picket fence considerations for the different Data Elements that aren't specifically identified and that's it. I mean, and then we - I think very appropriately and precisely went into the lawfulness of processing text by breaking it down of the different roles of the collection by the Registrar's and Processers under 61B. ICANN is a Controller for 61F Purposes and then the collection of the registration data within the (RDDR) is different from the transmission of that data. And then the transmission of the data in relation to (GRP), (URS) and the two mechanisms and changing the roles appropriately.

So, that's basically it. If there's anything else that Kristina wants to add that would be super.

Kristina Rosette: Not necessarily. I think the only question that I wanted to flush out and I think it's really a question more directed towards staff is that the text that was included in regards to question Number 1, the Purpose rational - I apologize, now I'm having issues getting to the right place. There's a notation in the last line however it was determined that these (unintelligible) do not involve registration data and I was just hoping that whoever added that statement could provide some clarity as the (unintelligible) of the underline information because (Diane) and I had come to the opposite conclusion.

Diane Plaut: Yes, thank you for raising that. I didn't know how to address that either.

Kurt Pritz: (Unintelligible) this is Kurt for (Barry's) and (Paul) but I think he muted because he's in a place where he can't really talk. I'm going to call on (Omer) - especially if (Omer) you have a response to this question if you don't I'll put

you on. If you think there is personal data involved maybe you can explain that.

(Omer): Yes, thanks Kurt. No, I just really wanted to sort of repeat - or sort of say that I have a similar question because I'm not sure how the (PDRP) and the (RDRP) include personal data within their own processes. So, I'm not certain why they are included here. I can see why the (UDRP) and the (URS) might involve process of registration data and that the disclosure may be necessary too for example the dispute resolution providers but in terms of the (PDPR) the (unintelligible) valuation dispute was in the process of the (RDRP). I don't really understand why the relevance to this Purpose at all. So, if someone would clarify that, I'd be grateful. Thank you.

Kristina Rosette: I'm happy to take a stab at that unless someone...

Kurt Pritz: Sure, Kristina go ahead.

Kristina Rosette: This is Kristina. Sure. So, starting with the (RDRP) -- and so apologies for the typo -- that is intended to cover disputes where a community based (new) (unintelligible) the registry operator deviates or alleged to be deviating from the registration restrictions that are contained in this registration agreement. And so as a practical matter, the analysis that (Diane) and I - basically our view was that if a complainant is going to allege that for example a community based registry is not following it's - for example registration restrictions, you know, only members of a particular community can register domain names in that (TLD) that as a practical matter you would need access, you know, that registration data then becomes relevant because how else are you going to know one way or another. That kind of is a very simplified version of it.

With regard to the (PDDRP) essentially the same thought, mainly if the complaining party is alleging that the registry itself is engaging in -- and I don't have it in front of me so I'm paraphrasing -- kind of systemic trademark

abuse through the registration of domain names in its (TLD), you will need to have, you know, either the complainant will need to have access to that registration data to prove it and conversely we anticipated that the registry operator would need access to that data to refute it. So, that at a very high-level the perspective that we were taking and looking at it.

(Omer): Thanks Kristina. This is (Omer) again with a follow up question, if I may. That's really helpful. In the case of the (RRGRP), would you mind explaining what Data Elements would be helpful?

Kristina Rosette: I don't think it's going to be any different Data Elements. I think you would want to know the register name holders name and I guess - I don't know if any of the (GO's) are also communities but to the extent that they are and have that formal status and have (unintelligible) in their agreement, you know, the data about kind of the city and country or whatever the particular element is to the extent that it's being captured. But it wouldn't be any other Data Elements other than those that we had already flagged for collection and connection with Purpose A. At least I wouldn't expect it but if there's someone here on the call, particularly ICANN staff that's got more background on this, than by all means please feel free to jump in.

Kurt Pritz: So, I've been talking for quite some time to myself so I think ICANN's going to provide some additional written clarification as I'm (Chatting) with them on Skype but you know, reading (Thomas's) explanation here and listening to Kristina, it seems like for the purpose of the initial report I'm going to leave it in and have someone take it out and not - Margie?

Margie Milam: Thank you, this is Margie. On a separate point, Kristina raised the good point that I don't see as part of the processing here disclosure to the complainant for these resolution procedures. And so, we're talking about in here it looks like you're talking about data from the Registrar to the Registry and the Provider but there's the other aspect which is to the complainant.

Kurt Pritz: So, if no one has a response to this we, you know, Margie you brought this up before and so you know, we've all taken it onboard and so I'm sort of concerned about it too. I brought it up amongst ourselves yesterday in a discussion so and Caitlin and Marita might provide an explanation for you so let's see. Marita, your hand is up.

Marita Moll: Yes, thank you Kurt. This is Marita. I actually had my hand up previously and to point people to the response that ICANN Org provided previously in relation to the question as to why these Registry dispute resolution procedures were not included in the temporary specification as a (copy) in that language in the Chat. And as I understand (Dan) and (Trent) can correct me if I'm wrong, it mainly had to do with the fact that in the Registry dispute resolution procedures it's Registry's who are the complainant versus (URS) and (UDRP) where it's individual Registrar's that are involved. So, that was one of the underlined reasons.

And, you know, if there are any follow up questions or any clarifications that are needed it would be really helpful if the team could specify what they're looking for. And I know (Trent) had posted in the Chat as well is that will make it easier for us to go back and get you the information that you need.

And in relation to (Margie's) question if I understood correctly, Margie is asking about disclosure to the complainant. I'm definitely not an expert in the (UDPR) and I'm happy to defer to someone else but as I understand it that is information that is currently not disclosed either to the complainant but is actually the Provider that obtains that information and then provides that to the complaint. So, would that be a change to the way (UDRP) and (URS) are currently managed and handled and so maybe Margie could specify a specific question as well as how they differ from what current requirements are so people may further discuss that.

Kurt Pritz: So, Margie could you just, without elaboration, just ask the question in the exact same way? And I'm going to ask Caitlin has looked at thousands of

(UDRP) cases in her prior life at (White) (Unintelligible) so I think she might be helpful. So, could you just repeat the question in the exact same way?

Margie Milam: Yes, sure. I was pointing out that the table doesn't talk about disclosure to the complainant and they address Marita's concern, there's a distinction between what happens before May 25 and what happened after May 25. And before May 25 the complainant would have access to the data to be able to identify the domain name that are to be included in the (UDRP). And so, that process is essentially broken now under the temporary specs because we don't have the ability to do the correlation that we did in the past.

And so, what's happening now since May 25 is that you have to draft a complaint which is pretty generic because you don't have the data that's available to support the (stat) based allegation that you need to make to submit a (UDRP) and then you get the data back from the (UDRP) Provider after you filed a complaint but you don't have the ability to really pull in other domain names since you don't have the correlation data. And so, what we're asking for is to be able to get that data before the complaint is filed, not after.

Caitlin Tubergen: So, Margie, this is (Kaitlin Tuber) again from ICANN Org speaking. And I just wanted to - I'm trying to understand the problem better and I'm wondering if there is any difference in pre May 25 land when it came filing a complaint against a proxy service or data that was shielded because my understanding -- which may be incorrect so please correct me if I'm wrong -- is that even in a pre (GDPR) world if the complainant filed a (UDRP) complaint against a proxy service or for a domain name that was utilizing privacy or proxy services, the Registrar would provide the underline data to the Provider who would then provide it to the complainant who could then amend his complaint. So, were you able to get that sort of correlating data with privacy proxy cases in a pre (GDPR) world because it seems (analogous) to me but maybe I'm missing something. Thank you.

Margie Milam: Well it depends on each Provider, right. So, you could either get the data from the - in a privacy proxy after you file or a Registrar might provide it beforehand depending upon what they, you know, what their policies are. And so, I look at this as different from, you know, obviously the privacy proxy rules are still the same, right. And so, it's that I was looking at this as being different from the privacy proxy rules and suggesting that that data should be available before you draft a complaint because otherwise you don't even know how to phrase the complaint itself. You have to prove that (base) and in order to prove that (base) you need to know who the party is. And so, that's the problem with the current scenario is that you're basically filing in the dark, right.

Kurt Pritz: Anybody else have any comments on this? (Diane) were you going to bring up (unintelligible) because it's (unintelligible).

Diane Plaut: Hi, Kurt. I was going to talk to a different one but I certainly understand what Margie is saying and if there - for clarity purposes there may be a need to add an additional component to the processing activities because we think (unintelligible) from a technological standpoint, even if certain information is redacted there should be the possibility of being able to have considering that this is an ICANN purpose the ability to forward-thinking get that information particularly since the fact that either post or – pre or post filing it's information that's required and needed and also, you know, there is a need for that and the complainant has the support of this purpose to be able to get that information even if the system changes from the temporary spec, we have to think forward on how that could be possible.

((Crosstalk))

Diane Plaut: But I'll go back to comments on something else at a different time, but that's my thought on this issue.

Kurt Pritz: All right. Thanks for your forbearance. I kind of think if it's pre-filing there is no dispute going on so Purpose M doesn't apply so it seems like it would just be a Purpose B inquiry. Benedict, did you want to talk to this issue?

Benedict Addis: Yes, I was just, again, I'm really struggling to get my head around this. Margie, perhaps you could speak to this or anybody else want to jump in. Who do you envisage as being the processor if these two procedures go into this purpose? So is it just a dispute resolution provider as per the PA4 and PA5 or do you see there being other parties involved? Thank you.

Kurt Pritz: Go ahead, Margie.

Margie Milam: Sure this is – yes, if I could reply? It's both the UDRP provider and the registrar, so that's – so if you submit a, basically, you know, if you – you're trying to seek the data so you can build your case to file your UDRP. And then in the instance that you may not have – so in the privacy proxy scenario that Caitlin described, then that data would come from the UDRP provider generally. But before the filing the – if you think about it, the complainant needs to be able to determine whether they should file a UDRP and they don't know the data until they've asked for it and received the information.

And then they have to pay a fee in order to file the complaint and typically in the past we used to include multiple domain names because of, you know, to minimize fees obviously. What's happening now since May 25 is that the number of domain names being included in a UDRP has gone down and that's because we don't have the visibility into who's behind the domain name.

And so that's essentially what we're talking about, it's approximately 10% down and the numbers of domain names that are involved in a complaint, and so – so waiting until after the UDRP – after you file actually doesn't make sense because you may not even want to file if you know for example that somebody has a competing right in another geography, for example, you may

choose to not file your UDRP if you understand that the other party – the registrant has legitimate rights in the name. And so this is a way of preventing frivolous UDRP filings if you have the ability to do the investigation before you file.

Kurt Pritz: Kristina, do you want to talk to this issue?

Kristine Dorrain: Sure. I mean, from where I sit I think there are kind of competing concerns that I am going to suggest that Margie and others who have a similar view try and propose a way to reconcile them. You know, because on the one hand the idea that a potential complainant could go to a registrar or registry and say hey, I think I might want to file a PDDRP against this particular registry, but I'd need to see all the underlying registration data to be sure.

I mean, that quite frankly aside from the phishing expedition aspect to it, it will be impossible for the party holding that data to undergo – to complete the necessary analysis because there simply aren't enough facts. On the other hand, you know, if the idea for the PDDRP is that there needs to be this mechanism in place for trademark owners who believe that the registry operator is engaging in that kind of behavior, you know, that certainly is more difficult to do.

What I would suggest, and I'm speaking just personally, not on behalf of the Registries, we haven't talked about this yet, but it seems to me that it's incumbent on Margie and others who have a similar view that if they want to go down this road of talking about access, which I kind of have issues with here anyway, I think they need to really put forward a proposal that would put a sufficient obligation and burden on the potential complainant so that the parties from whom the data is being requested are able to actually conduct the analysis that's required under GDPR in similar data protection legislation.

Kurt Pritz: Thanks, Kristina.

((Crosstalk))

Kristine Dorrain: And I also would just note that I think Caitlin's point about how UDRP proceedings with regard to proxies were handled pre-May 25 is a really excellent one.

Kurt Pritz: So, Margie, maybe – so for me I'm still trying to distinguish your request from Purpose B so is there a different – is there a different – because it seems like the legal basis would be the same so the test would be the same. So I wonder if you could think about how you would distinguish it from Purpose B and so we'd have something to hang our hat on?

Margie Milam: Sure. If I may jump in? And actually I think maybe to address Kristina's concern, I'm not thinking about this – I was focused on the UDRP, I wasn't focused on the RDDS because like I appreciate your concern that it could seem like a phishing expedition and that's not what I was thinking about. So in the context of the UDRP, which is more specific and narrow, right, and the complainant has to have trademark rights in order to be able to even bring the UDRP, so I think that's distinguishable but I do think that we could certainly take it back and come back to, you know, the group because I do understand Kristina's concern that we don't want to have it be abused, right?

So why don't we go ahead and do that, take it back and maybe circulate something on the list to be discussed in a future call so we don't take up more time on this.

Kurt Pritz: Thanks, Margie. James, did you want to talk to this issue or a different one?

James Bladel: Hi, Kurt. James speaking. I actually did want to speak to this issue but since Margie said she was going to put some language out on the list I'll lower my hand for now. Thanks.

Kurt Pritz: Okay great. And Diane, you had your hand up on a different issue before?

((Crosstalk))

Diane Plaut: Hi, Kurt.

Kurt Pritz: Excuse me?

Diane Plaut: Oh hi, Kurt. I was just going to say that in fact I think to at least within this purpose address Margie's point that there could be under the processing activity section for clarity purposes, the additional language added to have the disclosure column so post-filing there would be the ability to have disclosure as needed. I think that could at least partially address this issue.

Kurt Pritz: Yes, I think so maybe if we refer to the provider rules but I think that's right. Kavouss, were you trying to get into the queue?

((Crosstalk))

Kavouss Arasteh: Yes, I'm sorry, I apologize, I'm on audio bridge. I don't know who is in the queue. I had just one small question or comment about for C and Purpose F, the language is exactly the same; is there any reason the language should be the same, Purpose C and Purpose F? Word by word, comma by comma and letter by letter, exactly the same. Thank you.

Kurt Pritz: All right, well I don't – can anybody on staff on the support team talk to that? I don't have those in front of me, Purposes C and F, which are the tech contact...

Marika Konings: Kurt?

Kurt Pritz: Go ahead – yes .

Marika Konings: Kurt, this is Marika. I think I – and I spotted actually the issues yesterday. I think Kavouss is probably referring to the roles and responsibilities document. I think there there was a copy and paste issue and indeed the language for I think F, the purpose definition refers to C, so we can fix and update that. But I don't think it has anything to do with what's up on the screen at the moment, it's a different document.

Kurt Pritz: Okay. So thanks for that, Kavouss, we've got that. And we'll make the correction. So can – so can the support team sort of clean this up or retain the redline version but create a clean version and put this in the catalog? We'll make a note somewhere of the material that Margie's going to provide so we can discuss that later. I'll take that as a yes.

Are there any other comments about this Purpose M? Caitlin says, "Yes, we can do that," and gave me a smiley face. Okay cool. Let's go to Purpose N as in Nancy. Kristina, do you feel up to talking some more?

Kristine Dorrain: Yes, sure why not? So here is Purpose N, which I have in front of me in hard copy so that's what I'm going to go from because my eyes are not good enough to read that. In any event, so this is the purpose that we had talked about – the kind of initially identified as the registry operator purpose, and I will get to in a minute kind of whether some of the questions that were posed in the agenda, which I'm trying to pull up, but basically what the – under the purpose rationale, one of the initial points was that, although it's not in the current rationale version, is that it would be lawful under 6.1(b) for registrars and 6.1(f) for registries.

And I would suggest if you haven't taken a look at that lawfulness of processing section, that everyone do that because it's extraordinarily kind of complicated depending upon whether it's a voluntary eligibility criteria or whether it's something that flows from the registry operator's contract. In the

interest of making it kind of easier for everybody I'll just go through the document in terms of on the screen.

You know, the Registry Agreements allow registry operators to establish, publish and adhere to clear registration policies and those are covered through Specifications 11-13 within the Registry Agreements. There's also relevant text and authority in ICANN's bylaws under Article 1.1.A.1 and Annex G2 so and the purpose is not in violation of ICANN's bylaws because it's consistent with ICANN's mission of coordinating the development and implementation of policies concerning the registration of second level domain names in gTLDs and principles for allocation of registered names in a TLD. And that latter part is covered by Annex G2.

In terms of the – are there any picket fence considerations, we'd need to obviously flush this out a little bit but it's clearly within the scope of the picket fence that that's not an issue there.

I guess – oh I have control, how fun? Can we make this bigger? And I guess it would be helpful to see in the chat if folks want me to walk through all of these lawfulness or processing tests or not. But I think the one point that I know that Amr had raised is whether or not registry operators believe that it's necessary that they be able to include the data that is being collected and validated, yes, Amr, I see your hand, be collected and validated for purposes of establishing registered name holder satisfaction of those policies, to actually include that in the RDDS.

So I put out an email to both the Brand Registry Group as well as to the Registry Stakeholder Group. And the view of, you know, particularly in the Brand Registry Group was that to the extent that it is important for customer trust to be able to have some signal that the registrant is in fact – obviously not the registry operator or its affiliate, that, you know, is it a trademark licensee which is covered by Spec 13, that there's value in that. And I got a

similar response from the registry operators who responded to my question to the Registry Stakeholder Group list.

And in particular some of the folks who felt most strongly about it were the folks associated with – I forget what the name of it is – but the TLDs that, you know, for example fTLD, they wanted to be able to include in the RDDS although obviously redacted depending upon what it is, to essentially include the registered name holders, whatever factor it was, whatever, you know, the compliance element was, and similarly with the geos. So I hope that helps. Let me look at the questions.

I think at this point I'm just going to open it for questions unless folks want me to walk through the lawfulness of processing which as I said before is a little complex, so I'm happy to do that but, Amr.

Amr Elsadr: Thanks, Kristina, this is Amr. Yes, thanks for the explanation. I was looking forward to hearing back from the Registry Stakeholder Group on why they believe this data needs to be included in the RDDS, because as we discussed before, I'm not disputing the registry operator's need to collect and process this data; I'm just – I'm not clear on why it needs to be included in the RDDS. And to be honest, the explanations that you've offered don't really sit – I mean, they don't really satisfy my, I don't know, for lack of a better word, curiosity around this purpose.

As you mentioned, it's very likely that this data will be redacted to begin with so I don't see how customers would have access to it in order to get the kind of trust that you've described. And second of all, here the purpose we have in front of us isn't about satisfying customer trust, it's about registries – registry operators being able to validate that the name holder satisfies the registration policy eligibility criteria. So what you're describing is an entirely different purpose altogether and it involves you know, disclosure of this data to basically anyone who wants to determine whether he or she can trust a domain name registration or not.

So again, I don't really – this still isn't sitting very well with me. I'm not – I don't understand why this needs to be included in the registration data. Again, yes, registries do need to collect and process this data for the purpose that is on the sheet in front of us, which is the validation of the name holder's satisfaction of the criteria, but I don't – I still don't see this as a – or the explanation of why it needs to be included in the work that we're doing here. Thank you.

Kristine Dorrain: I understand the concern. I mean, I think maybe, Amr, another way to think about it is, you know, to allow the registry operator to demonstrate and, you know, I'm mindful of kind of the legal versus natural person distinction and some of those issues that we talked about. But, you know, for example for Spec 13 in many cases, the trademark licensee is going to be a legal person, similarly, for example, you know, natural persons can't be registrants in dotBank and in dotInsurance as far as I know. So it's really allowing the registry operator to be transparent and accountable to – and essentially to kind of publicly demonstrate that they are selecting this data, that they are what they're holding themselves out to be.

Amr Elsadr: Kristina, this is Amr again. Yes, I think there are other ways the registry operators can demonstrate that they're accountable and transparent without adding data elements to the RDDS and allowing them to be disclosed under certain circumstances that are still not clear in this purpose. So the whole thing is just kind of vague to me. I don't see how it would work or why it would need to work at all to be able to get what you want done. So, yes, I think there are lots of different ways that, you know, registry operators can demonstrate their trustworthiness as well as the trustworthiness of their name holders, but I just don't see – this isn't explaining how that would be done through this purpose very well. Thanks.

Kristine Dorrain: Okay, I think then in that case I do need some help from you and we can talk about it more offline because I see there's other hands up. But I do think it's –

and I'm trying to find Annex G, because it has some relevant language in there. But let's talk about it a little bit more offline and then come back, although I'm happy to – if, you know, we could talk about it more now. But, Milton, I see your hand is up.

Milton Mueller: Yes, just following up on the last point that Amr raised, I understand and would support your – any registry with a restricted or policy-based eligibility requirement to collect data for the purposes of enforcing eligibility requirements. What I don't understand is that this has anything whatsoever to do with the public Whois. I think you know, you can ask people at the point of registration whether they're a bank or a doctor and you can develop whatever mechanism of registration you like for that. But the public Whois is essentially for people other than the registry to validate things.

And unless you're saying that if you run a policy-limited registry or TLD that you want anybody in the world to be able to check whether, you know, your registrants are actually meeting those criteria, which I hope you're not asking for, if that involves of course natural persons, I don't see the point of even including Purpose N in the whole Whois discussion, it's just a private matter between the registry and the registrant. And if the, you know, I guess I just don't – I still don't get it. I think both Amr and I are fundamentally asking the same question but we're just not getting an answer.

Kristine Dorrain: Sure. I understand that. And I think I need to get a better understanding of kind of what type of answer Amr is looking for. I would disagree though that it's really just between the registry operator and the registrant because you know, for all – for anything that is a community restriction, something that is covered by a PIC or that would be quote unquote a dotBrand, these are all included in the registry operator's contracts with ICANN. So, you know, I think there's – this additional party in there.

And to be clear, I'm not saying that it should just be, you know, everybody's data should be out there, but in many cases we are talking about – well we

are talking about registries where you can only have a legal person as a registrant. So, you know, I think what is kind of – what I'm trying to do here is to kind of find a balance that doesn't add more into the policy recommendations that we need but that will also at the same time kind of continue to allow the registry operators that for example are using registration eligibility policies to try and innovate within their TLDs to do so.

And I think one of the, you know, the concerns that we have is that I think at a minimum we need to be able to go out to public comment. And I would be totally fine, and frankly I think it would be super helpful to include in the initial report a specific question on, you know, should registry – registry operators that have these criteria, many of them want to be able to include the data elements that demonstrate the eligibility in RDDS, do you agree or disagree? I mean, I think getting the input on that would be extraordinarily helpful.

Kurt Pritz: Let's go to Alan's question and then I have a couple...

Kristine Dorrain: Yes, sorry, Alan. I saw the A and misread it as Amr. I'm going to blame it on my new glasses, sorry.

Alan Greenberg: Thank you. Look, we could take this information out of Whois and build a whole new display mechanism for this kind of thing. I don't think that's our job here. Right now the information is included within the contracts, it is within the RDS specification, it is needed by Compliance. And Amr may well be – be right, maybe we need a new purpose or need to change the wording of this to encompass the consumer trust and the other verification needs that other entities may have or the registries may want them to have.

But short of building a whole new structure to make this information available, I think we need to cover it here. It exists today, it is being used, the registries want it and believe it is a necessary part of having their registry be viable, so I believe we – and since, you know, that could just be a registry need if they publish it in some other way but since it is being done with contractual

clauses and requirements in the various specifications, registrars involved in it also, and Compliance has to be able to act on it if they're not following their own rules, I think it's a no-brainer that it is part of RDS Whois and we just need to word this properly to cover that. Thank you.

Kurt Pritz: Milton, go ahead.

Milton Mueller: So Milton Mueller here. Kristina said something about most of the registries that she's talking about are not talking about natural persons. Was that correct?

Kristine Dorrain: Many of them are not but I don't want to – I know that, for example, you know, dotNYC allows natural persons to be registrants and dotNYC is one that currently – they amended their Registry Agreement so that they can include in RDDS a field relating to the nexus with the registration eligibility policy.

Milton Mueller: Yes but in that case all we're talking about is location, residence and so that's already included in the Whois collection and it's fairly easy to authenticate. So I really think if we're just talking legal persons here then we're not going to be so concerned but when you're talking about broader sweep on what information you can collect to validate the eligibility of a registered name holder again, if that's between the registry and the registrant and ICANN Compliance as a private matter, it's okay but when we have people talking about consumer trust and about it sounds like you're talking about anybody in the world being able to query this and get the eligibility, that's when we're getting concerned.

You're talking about a major expansion both of ICANN's mission and of the nature of the Whois data elements, it could include almost anything about anybody. So we don't like that and we're not going to support Purpose N as long as these things are not cleared up in a way that is consistent with privacy values.

Kristine Dorrain: Milton, it's Kristina. You know, just to clarify, these registries are not limiting registration to just legal persons. Many of the registry operators that responded to my specific query about should you know, why they think it's necessary to be able to include, you know, some validation elements in their RDDS, do limit their registrations to natural persons but obviously not all of them do. So, you know, I apologize if I misspoke. I think at this point, you know, Amr's asked the question twice, I've gone back to the Registry Stakeholder Group twice.

I think it would be really helpful at this point to, you know, maybe Amr and I set up a time to kind of work together online to figure out exactly what information that I can get that will address his questions because I don't, at this point seem to be getting that, you know, at this point I feel like I'm just kind of throwing arrows at the dartboard and I don't think that's a good use of anyone's time.

Kurt Pritz: Okay thanks, Kristina. So that was a good explanation and really good discussion. I have a couple observations. One is maybe flesh out the purpose a little bit, you know, enabling validation of registered name holder satisfaction, blah, blah and then maybe in order to so maybe some more detail could be provided to the purpose. Two is that there's certainly – the registries in certain cases are certainly going to be collecting personal information in certain cases so wherever the data resides, you know, handling that – handling that data has to be in accordance with GDPR.

Third is, I don't think this purpose contemplates disclosure of data to others outside the registrar. I know it says "disclosure of" and a couple blanks here, but, you know, I think that might only be to ICANN Compliance if anyone, so I think we should, you know, kind of blatantly address Milton's concern that the idea here is to enable the validation of the registered name holder satisfaction of the registration requirements and not much else as far as disclosure goes. So I think we should – you should address that blatantly.

And then finally, you know, whether it belongs here or not, you know, I think that's the discussion with Amr, you know, for me if it's a – I think – and to this group if it's a registry purpose and not an ICANN purpose then it's just between the registry and registrar and the registrant, and doesn't need to be in a consensus policy but, you know, if it's in compliance with an ICANN contract and the whole communication among, you know, registry, registrar and ICANN is in compliance with ICANN, you know, that sort of lifts it into the realm where it does belong here.

So I think that's the, you know, those are the two discussions you might have with Amr, if Amr's amenable to this is, you know, maybe a little more definition around the registry purpose, you know, limiting the disclosure of data and then, you know, what's the hook that, you know, how does this belong in an ICANN consensus policy because ICANN's part of this troika. So I think that's you know, especially that last thing is what you have to settle. Does that make sense or did I go on for too long? I went on for too long. Kristina, are you there?

Kristine Dorrain: Sorry, they're moving somebody into the area right outside where I sit so it's getting kind of loud. No, I thought that was helpful. I do think, you know, in – I'm more than happy to talk with Milton and Amr about it. It may be that we need to reword it in such a way that addresses their concerns and makes it clearer why this should be, you know, part of the consensus policy. And I'm certainly happy to do that.

Kurt Pritz: Great. Thanks. And do it fast. I'm just looking at the chat. Okay so that's good, so I'm ready to move onto the close of the meeting unless anybody has any more comments about this? Okay can Caitlin or Marika – do we have action items coming out of this?

Marika Konings: Yes, Kurt. This is Marika. I have a couple listed, let me just scroll down my own notes, so the first one is in relation to Purpose M, Margie to provide

further details in relation to potential disclosure to complainant in relation to possible UDRP filing. And they second action item is for staff to produce an updated clean version for Purpose N for EPDP team review based on today's discussion and the input that has been provided by Kristina and Diane. And then in relation to our last discussion, Kristina to connect with Milton and Amr to see how concerns can be addressed for Purpose N and suggest updates accordingly.

And then of course coming back to our initial discussion there of course a bunch of outstanding action items that, you know, hopefully everyone will be able to complete as soon as possible as well.

Kurt Pritz: Thanks for that, Marika. And then we're going to work on meeting planning for the next face to face. Alan, do you have a question?

Alan Greenberg: Yes, thank you. I've mentioned a couple of times the Kobe meeting, the ICANN travel lists have to be in within a week or so, so if we are not going to act on it, that implies we will not be having a plenary face to face in Kobe where a lot of our members will be there in any case. So I just want confirmation that that is indeed the plan, otherwise we're going to have – we're going to be in a situation where some people are at the meeting and many will not be at the meeting given that it's...

((Crosstalk))

Alan Greenberg: ...it seems to be an appropriate time when we should be meeting if we can do it at a reasonable cost.

Kurt Pritz: Right, so the plan – there's no funding for the Kobe meeting and the plan is not to meet there so if that changes some other accommodation to the timing of filing for travel support will have to be made .

Alan Greenberg: Okay.

Kurt Pritz: That's what I'm...

Marika Konings: Kurt, this is Marika, if I can just...

((Crosstalk))

Marika Konings: Sorry to interrupt, if I could just add to that, you know, just because there's no support doesn't necessarily mean the group won't meet, it may just meet like other PDP working groups do, you know, with those in attendance participating on the ground, others participating remotely. So one doesn't necessarily exclude the other.

Kurt Pritz: Thanks, Marika. And there's one other really important administrative note that I want to make and that is that time is changing for some of us but not all of us this weekend. And so we – I would prefer that we move the meeting an hour to 1400 UTC which is, you know, so it'll remain the same for those of us on daylight savings time but be an hour later for those that are not on daylight savings time. And anybody from the Southern Hemisphere is on the phone, I apologize for that and it's the reverse of that, but we'll make that clear in a meeting notice for the meetings that start next week. All right so everybody agrees with me, that's a first.

All right so thanks so much for the constructive discussion, we'll get on the action items that we have and we'll talk to you on email I'm sure over the next 48 hours and then in the meeting on Thursday, so thanks very much and have a great day.

Nathalie Peregrine: Thank you, everybody. This concludes today's call. Operator, you may now stop the recording and disconnect the lines. Have a great rest of your day. Goodbye.

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