

**ICANN
Transcription
EPDP on the Temporary Specification for gTLD Registration Data
F2F Meeting - Day 2
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Gina Bartlett: Okay, everybody, can we get started again?

((Crosstalk))

Gina Bartlett: This is Gina for the record. I haven't said that for a while. Can everybody pull out their small table of agreements one more time, small team table of - the small team agreements and go to Recommendation 13 on Page 7. So what we're going to do here, we want to ask everyone to please look at Recommendation 13; a small team did make some modifications to this based on the public comments and based on the feedback received in the small team I think primarily to get to some language on appropriate processing.

However, since then you have received the ICANN memo and we have John here to help us understand that. And so what we were going to propose is our process is just invite everybody to look at this for a couple minutes, to anchor yourself and remind yourself about the small team. Then we were going to go to John to discuss the memo or like present some ideas of the memo and then have a discussion, and then we would go back to Recommendation 13

to understand is there something we need to change or further modify based on our understanding through the memo.

Kurt Pritz: Oh, yes, so I'd like to welcome John Jeffery to our team. We have a couple options before us. John's made arrangements so we have a Jones Day attorney from Germany on the phone that can give us a brief synopsis of the memo and describe it, and then we could ask questions, or we could just ask questions about the memo itself, so it's up to you guys but let's just have a show of hands about who would like to get a briefing from the counsel. So Benedict's raising his hand and not knowing what he's raising his hand to.

((Crosstalk))

Kurt Pritz: Anybody on this end of the table?

Gina Bartlett: They've raised their hands. Let's...

Kurt Pritz: Okay.

Gina Bartlett: So let's take the synopsis.

Kurt Pritz: So, yes.

John Jeffery: So thank you for listening to us. So I'm John Jeffery. We have Undine von Diemar, who I'm sure just - I just destroyed her name, Dr. Undine is on the phone. She is Jones Day's lead partner on European privacy and cyber security and coordinates their practice in Europe. She was helping us - her and her team helped us with this memo so we thought better than having my lack of expertise presented to you we'd have her present it to you. Undine, can you hear us?

Undine von Diemar: I can hear you very well. Thank you, John. And yes, thank you for inviting me to the meeting. The only...

John Jeffery: So yes, please go ahead if you can. I think we're thinking...

((Crosstalk))

John Jeffery: ...just a quick summary.

Undine von Diemar: There is...

John Jeffery: Just less than five minutes.

((Crosstalk))

Undine von Diemar: A lot of echo, sorry.

John Jeffery: Five minutes.

Undine von Diemar: Okay so let's get started. John, what is a little bit disturbing is I hear a lot of echo. Can we change something? I don't know what is causing the echo but - do you hear me?

((Crosstalk))

Undine von Diemar: Okay so I try to speak nevertheless but hearing the echo is a little bit weird. But anyway, maybe let's start with a brief preliminary remark. The question whether ICANN and the contracted parties are to be considered the joint or independent controllers is of course not an easy question and it cannot maybe, you know, easily be answered. And it might also well be the case that European data protection authorities might have different views on that topic and maybe eventually we will even have the Board opine on that.

So what we tried here in ICANN's response is thought to lay out some grounds for what we think is a reasonable and defensible position in this

regard and that is what we think is independent controllership with respect to gTLD registration data processing. Of course we looked very thoroughly on the initial report and we understood from the position of - in the initial report of the EPDP team that basically the team considers the main registration as one set of operations and assessed that ICANN and the registries and the registrars are all jointly contributing to that operation and therefore are to be regarded as joint controllers.

We think it might also be possible to hold a different view in this regard and I guess the main reason that we think can be brought for independent controllership is probably that the processing is from our perspective not just one set of domain registration operations. We think that it actually consists of various processing activities so that you can break down domain registration processing into different processing activities which occur under a common framework of agreements or policies but still the parties have distinct purposes here.

And I guess one important point in this regard is that when we look further at what is a joint purpose that a joint purpose between ICANN and the contracted parties as controllers cannot just be determined by a policy that is accepted by everybody, but we think that there is a factual analysis needed on whether the controllers really jointly determine the specific purpose for the specific processing activity. So just because we have a policy that is accepted by everybody, we don't think that this results in a joint purpose.

We also think that just because certain processing purposes might originate from ICANN and ICANN may articulate a purpose for the contracted parties that this would also not make ICANN a joint controller in this regard because, again, if articulating a purpose or setting certain standards for processing or detailing and defining processing protocols further would make an entity already a controller I guess that would mean that if one would really follow this argument that many standard-setting bodies would actually have to be considered as controllers and that cannot be the case.

We also think that while the initial report speaks about relatively broadly ICANN purposes, when you take a closer look at the purposes that were all summarized under ICANN purposes that it could be that at least with regard to some of these purposes the parties actually pursue different purposes and it seemed to us that for example when we look at conducting audits or inspections that this is - or transitioning data from one registrar to another that there seemed to be cases where the parties actually have different purposes that they are pursuing.

Another reason that made us think that independent controllership might be rather suitable in this situation is that it is not just about determining a joint purpose, it's also about determining the means of the processing jointly. And this is really about determining the technical and organizational measures of the processing. And we didn't really see that. On an abstract level of policy, maybe, but not on an actual level of ICANN determining the means of the processing for the contracted parties and therefore there's this factual element of control missing that is really needed to become a controller in the first place and of course this also results in then not being able to become a joint controller for certain processing activities.

Maybe also looking at this from a more strategic angle, it seemed to us that independent controllership actually has some advantages over joint controllership. And obviously joint controllership requires to enter into an arrangement between the joint controllers as the GDPR prescribes, and it would result in joint and then several liabilities between ICANN and the contracted parties which I think would probably also result in some difficult to handle liability risk.

At the same time, in order to control these risk it might be the case that really some very costly oversight and audit mechanisms would need to be put in place so it would really change the structure of ICANN and the contracted parties working together at this point.

So taking all this into consideration, we thought one feasible or possible way forward would be to, if one follows the idea of independent controllership, to maybe develop a data protection specification further that would become part of each contract with the contracted party and coming back to the temporary specification and Appendix C, that is already a starting point for setting out the obligations that have to be met by a controller under the GDPR. One could probably, on that basis, define such specification further so that would be maybe a way forward.

Looking into the future, another idea that we had and that could be interesting to discuss would be whether this refines, so to speak, Appendix C of the temporary specification could be eventually used as a basis of a code of conduct; that's something that the GDPR foresees. And that would probably maybe even provide for some greater legal certainty for ICANN and the contracted parties because in order to have a code of conduct the code would require authority approval and at the same time also oversight by accredited bodies. But of course this is something for the future.

In the near term we thought that coming back to Appendix C of the temporary specification and developing that further to provide for a suitable framework could be a possible and maybe preferred way forward. So this was a little summary of what we set out in, yes, in the response memo.

Gina Bartlett: Thank you. This is Gina Bartlett. I'm serving as the facilitator right now. And I think we're going to open it up for questions. So I saw James, Alan, Emily and I see Thomas. And then John, are you going to field the questions and then defer what's necessary or how are we going to handle the questions?

John Jeffery: Well let's see what the questions are.

Gina Bartlett: Okay. James.

James Bladel: So I guess just wanted to flag something and maybe it turns into a question for John or for whomever, but our agreements have some provisions that kick in whenever the Registrar Stakeholder Group adopts anything that is called a code of conduct; and I understand that's a term of art under GDPR. And I think we use it differently under our Registrar Accredited Agreement, so there's a collision there so we would have to fix that either by calling it something else or by taking out or amending or making clear that that doesn't trigger that provision in our contract. Thanks.

John Jeffery: Excellent point.

Gina Bartlett: Thanks, James. Alan.

Alan Woods: Thank you. Alan Woods for the record. I suppose a two-point question, this is a very difficult process for any legal counsel to answer the question about the controllership, etcetera, so I mean, I would be very intrigued as to understand what was the task that was set for the outside counsel in coming to this memorandum. And as an aside to that then, if we have come to a decision or if a decision has been come to as to the respective roles of the parties it would be very helpful for the EPDP to be able to see the data mapping process that based the decision as to the roles of the parties because that could lead to us being able to see how the processes were mapped and where the conclusions as to controllership or this independent controllership arose from and could help us in our deliberations definitely. So if that is available I would love to see it.

John Jeffery: Why don't I start with an answer and then we can open it up to others. The - I think you're absolutely right; I think this is an almost impossible question without the data mapping. And it's my view that there's still work to be done on that, that in fact we would benefit from having discussions with the contracted parties and making sure that that map is clear. And that could lead to a different conclusions in terms of whether it's independent or joint. And

the factors of that could impact it. So I think there's definitely still something that needs to be done.

I think it's been one of my concerns when this discussion has come up in previous groups when I was in Thomas's group and was talking about it, that was our primary concern that we were putting one thing in front of the other and in fact they either have to go parallel or the mapping has to be a little bit ahead to make a decision. I don't know if anybody on the phone from the legal team would want to add to that because I don't think I answered the whole question.

Gina Bartlett: I think Part 1 was the - what was the task for the legal counsel or the independent counsel.

John Jeffery: Yes, Dan, do you want to answer that? Can you speak?

Dan Halloran: Yes, so this is Dan. I'm not sure as to that question exactly but, you know, this was the (unintelligible) representatives and ICANN Org responding to requests for additional input from - it started out as the small team that Thomas Rickert and Diane and others were on and you I guess. (Unintelligible) at first responding to it in the memo before (unintelligible) the case that ICANN and the contracted parties were sort of joint controllers across the board and you guys first in a 10-page memo sent questions about that.

And then we were asked for additional input and so we, you know, provided this additional paper kind of laying out in further detail the case that might be made for why it could be seen as independent controllers. And as John said, you know, we're not the world's experts on this but we do have great outside counsel helping and they helped in this but I wouldn't go into this was definitely an ICANN Org memo and we're not going to be, you know, disclosing communications between ICANN and counsel if that's what you're asking for. Thanks.

Gina Bartlett: So Dan, just so you know, in the future, it's very difficult to understand you; your mic is very gravelly and we caught most of what you said but if there's any improvements you can do, that would be great. Alan's requested a brief, brief follow-up, he promises it's brief, and then I'll go back to - I have Emily, Thomas, Diane. Go.

Alan Woods: Thank you. Alan Woods again for the record. I just wanted that brief follow-up and asking whether or not - and I think this is the core of the question - whether or not specifically the outside counsel were asked for all alternative to the joint controller arrangement or not, and that's kind of a very key question for us to ask.

John Jeffery: I think they were asked to analyze the legal issues, not to specifically to go in one direction or another.

Gina Bartlett: Thank you. Emily.

Emily Taylor: Thank you. Thanks a lot for preparing the memo, getting the work done. On a practical level, it arrived after many people had left to make their journey to this meeting and we've been working intensively ever since, so responses at this stage, certainly from my perspective, are pretty rough and ready. It's obviously a very complex area; it's engaged us as a team for many months, the issue of what the purposes are and who's the controller and processor and it's clear to me that it's an issue on which sensible minds can disagree particularly if they have an interest in disagreeing.

But anyway, as a sort of just straight analysis, there - I think one of the confusing issues is that there's quite a small set of data which is used by many parties for many purposes. Where I think the - this is my personal view at this stage - where it gets complex and legally risky is the disclosure and publication of data which from the point of view of a registrar would not really

be something that would flow from the normal course of their activities and the normal processes around registering a domain name.

I have quite a few questions and comments on the memo. I don't want to take up everybody's time with it because I think this is - and just looking around the room this is an issue that engages the contracted parties very much. I think that there's also some interest from our colleagues from Business and IP constituencies, but this is really - goes to the heart of the relationship between the contracted parties and ICANN. I think there's a lot of complexity and there's a lot of things that need teasing out.

You know, just as a very broad brush, there was some arguments which I found rather unconvincing and I would like to understand the rationale for a little bit more, and so I just wanted to raise the flag and ask how you would like to receive feedback from particularly the contracted parties but of course any other member of this group.

John Jeffery: That's an interesting question because I'm not sure I'm the right person to be receiving that feedback. This is actually in part done for this group in order to formulate the policy. So but then also at the end of the day there's a legal principle that either applies or doesn't to whatever policy is created. So I think I'd leave it to your guidance on how you'd like to receive that or put that into the mix. We'll certainly be engaged on it in any way we can to help.

((Crosstalk))

Gina Bartlett: Yes, go ahead, Emily.

Emily Taylor: It's really, you know, this is something that we've been - something that we discussed this morning. Chris made some interventions which were very helpful. ICANN is a player in this to some extent, and needs its voice to be heard but that doesn't just involve throwing a legal memo into the ring and then withdrawing, in my opinion. These are issues in which there can be

arguments, disagreement and just as we've spent the better part of a day on about three lines describing access to third party - for third parties, this is an area where we will need some consistent dialogue with ICANN in order to understand each other's points of view and contribute to a better policy outcome.

Like it or not, ICANN Org is a stakeholder in this multistakeholder policy process; it is not a passive recipient of the outcome particularly where, as I'm sure, you know, I don't need to explain to you, that there are legal consequences potentially for the organization and its directors. It is a stakeholder and it must, in my opinion, participate more than just throwing a memo into the ring.

John Jeffery: Your caustic question assumes that that's something I would disagree with, and it's not and we are happy to engage at whatever level you'd like us to engage in, but this is your policy process and we will participate in it at your will.

Gina Bartlett: Okay thank you, Emily. Thomas.

Thomas Rickert: Thanks for joining, JJ, Dan and others on the phone. I have to confess I didn't have too much time to go through the memo because it was sent in the last minute. And I really applaud you guys for having put so much effort into shedding some light on this difficult subject.

One point that I particularly like is that there seems to be an emerging consensus within this group, as well as inside ICANN Org, that drafting a code of conduct and presenting that to the authorities is a valid path forward because I think with what we're trying to achieve here, particularly the UAM and other things, we are going to stretch the boundaries of GDPR and enter uncharted territory. And I think that we will only get legal certainty if we get the confirmation that a code of conduct is accepted.

More or less following up on what Alan has asked, this memo as well as the previous memo that we received, maybe it's unintentional but they read like we're trying to come up with arguments against a joint controller agreement. So in the last memo there was an example about the travel agency quoted that where the Article 29 group said, this is not a joint controller agreement. I think it was Example 7. But Example 8 was not mentioned where a comparable scenario from the travel industry was mentioned where the Article 29 group concluded that a joint controller situation was present.

Also this memo talks a lot about implementation issues, and I accept all that and I actually think it would be much easier for us to just have an appendix to existing agreements rather than being forced to come up with joint controller agreements. But implementation or liability benefits or difficulties can't dictate what concept is present. And since we're now analyzing public comment and have to assess whether we need to change our preliminary recommendation, I for one have not been convinced that we can move away from the joint controller situation.

So we have - sure.

John Jeffery: Let me just address that before you go so I don't forget the point because I think it's really important. I think that that is in part because there is an assumption built into the materials that they were responding to about joint controllership being the right view. And our counsel, whether right or wrong, is advising us that they disagreed with that, so the memos that are being prepared are in response to assumptions that are being made that they're responding to, so I think that's logical that in fact it would be somewhat retorting the present thinking that they see existing in the group or in some of the writings.

I completely agree with you that if you have a concern that our counsel or ICANN's approach is too slanted based on its bias, our public interest bias, I might say, then in fact that's why we've hired Ruth to take a look at it from a

slightly different angle and to bring her into this mix as well. So I appreciate what you're saying, I just wanted to make sure I addressed that.

Thomas Rickert: And thanks for saying that. And I think, you know, we're all leaning towards certain solutions and try to make a case for those solutions. Right? And as I said, it would be great if we had alternatives that would be less cumbersome to implement. So I see the implementation issues but the arguments against the joint controller situation that have been voiced in the memo I don't find particularly convincing. I will just highlight very few points. One is that allegedly the means of processing are not jointly determined.

And if we look at the Article 29 working paper that also says that means are what data is to be collected and to whom the data is being made accessible. So we have the discussion about means although the technical means, you know, what service to be used, are not being determined. So there is a joint determination of the means as well as the purposes. We have the policy making insight, ICANN, we have the RRAs that are being negotiated, there's even a process for changing the agreements where the contracted parties are sitting at the table so this is joint activity.

The community development - policy development is joint activity. ICANN is not a standards body, you know, that was the argument that was made that whatever standards body could then be deemed a controller, the situation here is different because ICANN actually enforces the policies and whether contracted parties abide by the policies. So you have an element of control and sanctioning. There are audits carried out. ICANN asks for data to do compliance audits. So this goes above and beyond what other standards organizations are doing.

Also, if you look at trying to minimize or manage liability risks for contracted parties plus ICANN, if we fail to come up with a joint controller agreement where it is required factually, that would be something that can be sanctioned. And the idea behind Article 26 is, and I think that this memo

doesn't talk at all about the micro level versus the macro level, so if you have complex scenarios with a multitude of processing activities with different players, Article 29 is meant - Article 26 is meant to prevent the data subject from trying to identify who's responsible for what and at whom to direct rectification requests or raise a request and the like.

So that shall protect the data subjects more in an online environment that is very complex these days. And if we fail to - I'll be done in a second. If we fail to do that I think there's a real risk of the contracted parties plus ICANN being sanctioned. So I think from the strategic point of view it will be beneficial to take the joint controller situation as a starting point, put something into the draft code of conduct presented to the authorities and if they say that you can get away with less, which I think doesn't accurately reflect reality, then you can roll it back if you're permitted to do so. But I think taking the JCA as the starting point is the least risky approach and I think we can find ways to make it manageable from an implementation perspective.

But again, I'm happy to be advised differently but the arguments in the memo I didn't find convincing enough to change my mind.

John Jeffery: Thank you. And I think that proves in fact your quick reading was a good reading and a thorough one; you went very deep into the content. I don't know if Undine would be available to answer but I think our goal is to keep the answer very short at this point. But if you'd like to respond, Undine, I think that would be helpful. If we could keep the response short, though, maybe there's also a way we could - I think this is a very good discussion, a very important one but maybe not necessary for the answer that we need today.

So maybe we could - I mean, I don't know how you're using your legal committee or other groups, maybe there's somewhere else you could put this discussion so we could go deeper into it and provide better analysis.

Kurt Pritz: Yes, especially since your outside counsel is up very late. So we'll take a short answer. I think Dan has an intervention. And then is that a new hand?

Gina Bartlett: I have three people in the queue. I mean, another option is we could hear the comments and questions and then pick them all up together?

John Jeffery: No, I think it's very important that if we're going to get a comment like that that sort of sets the tone...

Gina Bartlett: Okay.

John Jeffery: ...that at least there's an ability to respond to that in short because I think as someone said earlier, rational minds can disagree on these topics.

Gina Bartlett: Okay. Go ahead if you're - counsel has a response?

Undine von Diemar: Yes, and thank you for the comments so far specifically...

((Crosstalk))

John Jeffery: Go ahead, Undine, if you can hear it.

Undine von Diemar: Hello. Sorry, can you hear me?

Gina Bartlett: Yes.

John Jeffery: Now we can hear you, yes.

Undine von Diemar: Okay. So thank you very much for the comments so far. And maybe just a brief response on the means of processing. I think we will have to deeper analyze whether this understanding of determining the means of processing that you, Mr. Rickert, I think were referring to in terms of the Article 29 Working Party opinion on controllers and processors whether this very limited

understanding was made in order to differentiate controllers and processors and allowing maybe controllers under certain circumstances to determine the means on a more abstract level and being able to outsource certain more detailed technical activities to processors, but where this might be different when we talk about determining control as such as a requirement also for joint controllership.

If this is maybe the way I understand the decisions that have been given so far from specifically the European Code of Justice on that topic and also the opinion of the Advocate General in - that just recently came out in Facebook (fashion) idea where I think it's a more, you know, it goes beyond just determining certain - what would have to be collected as data; it's a more technical understanding from my point of view because when they speak about means they really look very detailed which party is determining what in terms of Facebook and the use of plug-ins.

And similarly when we look at the decision Facebook (unintelligible) (Academy) it's a similar very technical understanding when it comes to determining the means. So it's a great point that you are raising, but I think there might be also different views possible here in this regard.

Gina Bartlett: Thank you, Undine. Okay, we have about 10 more minutes. Terri, I'm going to ask you put the timer up. So I have Diane, James, Alan and Dan. I don't know if Dan needs to go up but I'm going to just ask folks to be concise where you can. Diane.

Diane Plaut: Sure. Thank you. Thank you, JJ, for presenting this to us and for working forward on the legal front. This is really a question of law and the memo acknowledges that. What it doesn't acknowledge is that a deep factual analysis has been done to date with our work and this does set up and brought us to the conclusion of thinking that a joint controllership agreement is supported here.

And the reason is for numerous enumerations that Thomas has explained, but that there is a legal control issue here from a contractual standpoint through the different technical and overlap in processing activities, and the memo seems to focus very much on the advantages and the strategic reasons to land on a sole controllership framework.

But this is a question of law. And to date the legal - the factual analysis supports a legal conclusion of a joint controllership agreement. And a very important thing to note is that the memo misstates that joint controllership means that it has to be joint and several liability, meaning that there's no proportional proportionality related to the costs associated with liability.

But that's the benefit of a joint controllership agreement as Article 28 supports the proportionate layout for data subjects as well as the parties involved to be able to only be responsible financially for the proportionate liability for which they process data. So I think that that should be carefully taken into analysis when coming to a conclusion.

Gina Bartlett: Thank you, Diane. I'm going to go to James. Kurt, could you be thinking about the appropriate next steps because it sounds like there's a lot of rich discussion envisioned on this. James.

James Bladel: Hi. Thanks. James speaking. Thanks and kudos and all that that I'm not good at. I'm not going to argue the legal substance of this memo and my opinions on it because I'm not qualified and I'm caring less and less by the minute. But I think that it's important that we nail down something with regard to ICANN's role and ICANN's position as we develop these policies.

So I'm asking this group you know, regardless of where we land with this particular memo, is that we should consider putting a qualifier in front of our final report that essentially says that we, you know, all of our policy recommendations are predicated on the idea that ICANN's role is, as a

controller or joint controller, independent controller, whatever, is understood and codified.

And absent that, these recommendations, and I'm sorry to say the work of this EPDP, just kind of evaporates in a puff of smoke. And I say that because then that puts the ball back on Org and John's team and his outside counsel's to say well, what do you want? Do you want to take this on and you want to take on, you know, everything that comes with it? Or do we want to just kind of, you know, walk away and live with the status quo?

And I think we kind of have to - because one of the balls has to stop spinning. And I think this is the way to at least get some static frame of reference that we can work on. So that's what I'm putting on the table. And I don't know if you have any strong heartburn about that approach for Org, but - or if anyone does, but I just - I feel like something has to be kind of pinned down so we can move forward. Thanks.

Gina Bartlett: Thanks, James. Alan G.

Alan Greenberg: Thank you. I suspect I'm going in the same direction with very different words and it's in response to your response to Emily. And you said the memo is coming to us, it's really up to us to do what we want with it and you're happy to participate in that process. Ultimately whatever we come out with is going to go to the Board and the Board and its counsel has a fiduciary responsibility to do what's right for ICANN or what it believes is the best for ICANN.

So given that, I think it really is much more important for there to be active participation. I know we only have two liaisons or observers or whatever from the Board here, but we're making decisions which is then going to have to pass muster from the Board itself with your advice, and your legal team's advice, and I think your participation and the Board's participation would help us get to a place where we're not going to - they're not going to have refuse what we say because they think it's bad for ICANN. Thank you.

Gina Bartlett: Thanks, Alan G. Dan, thanks for waiting on the phone. And I think that will bring us to closure, we'll go to Kurt for next steps.

Dan Halloran: Thank you very much everybody for all the great input. And I think (unintelligible) we did mark it as a draft; we definitely do want to get feedback (unintelligible) Thomas pointed out in the first memo. (Unintelligible) took his feedback...

Gina Bartlett: Hey, Dan. I'm so sorry, we cannot hear you. It's just muddled, it's like gravelly muddle. You want to try - can you try to back away from your microphone?

Dan Halloran: All right, this is Dan and Trang. Is this better?

Gina Bartlett: Try it again.

Dan Halloran: This is Dan speaking. Can you hear me?

Gina Bartlett: Sort of.

Dan Halloran: All right, I'll pass. Sorry.

Gina Bartlett: Okay. So Kurt, I guess Dan's going to type - Dan, if you can type. So we've heard a lot here on the potential of a code of conduct but the need to address the wrinkle tied into that. People here are learning from the data mapping that went into the thinking behind the memo that led to the independent controller, disagreement on the joint controller versus the sole controller, a need for ICANN's continued role in developing these recommendations and policies that affect these agreements.

And maybe the idea of some introductory language in the final report that creates some kind of caveat or introductory language to put the onus back on

ICANN tied into these issues. Where should this conversation continue?
Have you - do you have some suggestions?

Kurt Pritz: Yes, thanks. I have three suggestions or there's three parallel paths here. One is we're going to discuss Recommendation 13 and the amendment to it that was created by a small team. And that discussion that might heighten or lessen the urgency of the issue and the timing of the discussion and the timing with which these things need to get settled. So we're going to do that first.

Second, I would - John, I would offer to the contracted parties and whoever else wants to attend maybe a follow up call when it's better time for everybody and they've had more time to - as we read the memo and we say well where'd that come from? You know, that's, you know, we have a process for that which is asking a question to ICANN so we need to create some sort of maybe fast track process for that where Dan can take those specific questions we have about rationale in the memo directly to the ICANN team.

So we'll - John, we'll let you know if we want to have a follow up call. And we'll have our discussion about Recommendation 13 and we'll use that other process as need be. And thanks very much, John, and...

Gina Bartlett: Yes.

Kurt Pritz: ...and thanks to counsel on the call.

Gina Bartlett: Yes, thank you so much.

Undine von Diemar: Thank you.

Gina Bartlett: So should we turn to Recommendation 13 now? Five minute stretch. We're going to come back to Recommendation 13 and we're not sure what we're coming back to but let's have a five minute break.

((Crosstalk))

Gina Bartlett: We're just going to move around for a second, Kavouss.

Kavouss Arasteh: Yes please, yes, just for the moment please, yes, before you go to the break, yes. Or after the break give me the floor.

David Plumb: Yes.

Kavouss Arasteh: Thank you.

Dan Halloran: Hello. Sound check. This is Daniel Halloran, can you hear me? Hello, Dan Halloran here. Can you hear me? This is a sound check.

Andrea Glandon: Yes, Dan, this is Andrea from staff. I can hear you on the phone. I'm just waiting for somebody in the room to verify that they can hear you.

Dan Halloran: Yes, I'm chatting with Terri. Thanks. Hopefully she can hear me.

Andrea Glandon: Oh good.

Dan Halloran: Thank you.

((Crosstalk))

Dan Halloran: Hello, Terri, can you hear me? I'm hearing from other people that they can hear me on the audio cast so I'm trusting you'll be able to hear me next time. Sorry about the trouble with the microphone. This is Dan Halloran. Terri Agnew. Terri, can you read me? Thank you, Terri.

Gina Bartlett: So we're going to do Recommendation 13, then depending what happens with David we're going to go to Recommendation 1 either Purpose 2 or Recommendation 1.

((Crosstalk))

Gina Bartlett: Can everyone please reconvene, if you don't mind, or even if you do mind I guess. I know. But we need to go to Recommendation 13 if we're going to keep going. So...

((Crosstalk))

Gina Bartlett: We would like to go - do you guys think you could go outside, David? David, could you please go outside? So we are planning to go beyond 5:30. A lot of people are leaving tomorrow early and so right now we're planning to go to 6:45, okay? What we're going to do is I want to pick up Recommendation 13 and we're going to - Marika's going to set it up for us, we're going to look at the small team proposed updated language. Then depending on - David's going to be trying to work with folks on Purpose 2, we may come back to Purpose 2 but then we may go to Recommendation 1, other purposes.

So we - we're going to do Recommendation 13 first and then we'll decide whether we go to Purpose 2 or Recommendation 1. Before I have Marika set it up, she's going to set up Recommendation 13 for us, I told Kavouss, we could go to him after the break. Kavouss.

Kavouss Arasteh: Yes, in a separate note at the previous session before the coffee break when considering Purpose 2 after the legal advice was given, in modifying that text of the alternative version of that purpose, I stated that, quote, "We have not asked any legal advice on the matter." End of quote. Later on, I recognized that in fact such legal advice was sought on which I was not aware. In view of that, I hereby modify the statement by the following: "I would have no objection to consider any legal advice if such advice is formally sought." This

modified statement would supersede and replace my earlier advice in that regard. Thank you.

Gina Bartlett: Thank you for that clarification, Kavouss. Okay, Marika's going to set us up on Recommendation 13. I'm going to take us back so long ago to yesterday to the high bar and our charge here on Recommendation 13 is, is there any group that thinks the concerns expressed in the public comments were not sufficiently addressed by this proposal? And then is there any group that cannot live with the proposed language? Marika, can you remind us what happened in Recommendation 13 discussions?

Marika Konings: Yes, thanks, Gina. This is Marika. But before doing that, if you don't mind, Dan actually indicated that his mic has been fixed and he would like to make his point if that is all right? Dan, go ahead.

Dan Halloran: Thanks, everybody. And I promise this will segue right into the Recommendation 13 language. Thanks to Emily and Thomas and everybody else for the good feedback and constructive feedback on the memo. And, you know, apologies got right in at the end. And just a note of caution too that it was responding to what was in the initial report text and then, you know, next we're going to look at the proposed updated language from the small team which I think, you know, is - makes some positive changes and I think maybe even if we can talk about like yesterday there were some additional changes to the small group's work that, you know, put in (unintelligible) something like "as necessary" because it, you know, opens the door to let us, you know, move forward and keep, you know, discussing these things and when we get to implementation then once we have a better refined and agreed-upon view about how these things should apply then we can apply them to the parties as necessary, not necessarily across the board.

For example, like Rec 13, it states right now applies globally even in places where GDPR might not apply. So I don't know that we need to enter a joint controller agreement, let's say, with a registry in China that only has Chinese

registrars and Chinese registrants. So I think adding in, "as necessary" I think that was a Ruth addition to one or two of the recommendations yesterday, might be very helpful.

But I definitely think the small - the update towards Rec 13 go along way and could help fix this and thanks for all the constructive feedback, we take further feedback on that either, you know, in writing or, you know, verbally if you guys want to give that to us; I like the idea of taking it up in the legal team or redlines or however you guys want to submit that. And thanks again for the feedback.

Marika Konings: All right, thanks, Dan. This is Marika again. So you've seen the language up on the screen and I think Dan already hinted partly to the conversation that the group had. So they considered the concerns that were expressed that mainly were focused on the specificity in the recommendation and maybe tying the hands of the parties that will ultimately need to implement the appropriate agreement. And as such revised language has been proposed which would allow for more flexibility for contracted parties and ICANN Org to negotiate and work out the appropriate agreement that is then determined following further investigation and research.

So that is the approach the small team has taken. They did note that, you know, of course the ICANN Org memo wasn't published at the time they discussed this so they did note that that might impact their consideration of the input provided and the changes made so I think the question is for the full team including the small team members whether indeed, you know, have concerns been addressed or, you know, in light as well of the memo, are there any concerns that are currently not addressed here in this proposed updated language?

Gina Bartlett: Okay, let's take five minute to read over the proposed language, the updated language and the - if there's anything in light of the memo or the discussions to date, but otherwise the question is, is there any group that thinks the

concerns expressed in the proposal you know, they haven't sufficiently addressed the public comments and the proposed language? And is there any group that cannot live with this language? We got five minutes on the clock.

Okay, we have about one minute left for Recommendation 13 and we're going to come back together on that. Okay, David, we're going to start in here, okay, on Recommendation 13. So anyone have any proposals that they want to make to modify the small team input based on the memo for Recommendation 13? Thomas.

Thomas Rickert: Thanks very much. I'd just like to go on the record that I think it's less than optimal for us to move away from requiring a JCA to be concluded. Both Recommendation 13 as well as Recommendation 21 are wide open in terms of how this is going to be implemented. And given the resistance that we saw in the memos to make a clear confession that it shall be or that ICANN will enter into a joint controller agreement I think will ultimately lead to a situation where we're going to have something else.

And ICANN seems to have difficulties with the complexities of implementing a joint controller agreement with the perceived additional risks with the joint and several liability, and I think it would be far better to require the conclusion of a joint controller agreement as a recommendation because that will give the Board, that will ultimately have to adopt our recommendations, the comfort that the community is behind that and that they don't have to fear being blamed for doing something that is not in ICANN's own best interests.

And since the recommendation that we put into our initial report said subject to legal advice, there is still the opportunity to move away from a JCA if we get legal advice or otherwise get confirmation that we can have something else than a joint controller agreement and yet be compliant.

Gina Bartlett: Okay.

Thomas Rickert: But if we move away from that I think there's no way that we're ever going to have it.

Gina Bartlett: Thanks, Thomas. Terri, can you put 10 minutes on the clock, because I don't want this - I want us to try to manage this in a short timeframe. So I'm going to go to Stephanie, and if you could help understand any perspective to Thomas's proposal to require the joint controller agreement that would be great. Thanks.

Stephanie Perrin: Stephanie Perrin for the record. Briefly I would just agree with Thomas. I don't see how we can avoid forcing this issue. You can't have a sole - if it's a sole controllership, what is it over? And we're spending an awful lot of time trying to figure out things that will enforce disclosure; how do we do that if they're not - if ICANN is not a controller under that situation then that all falls away. So let's not waste our time; we need that JCA.

Gina Bartlett: So I want to go to the small team. Is there anything from the small team that would lead us to, you know, stick with this language in light of the insights and recommendations expressed by Thomas and Stephanie? Margie.

Margie Milam: This is Margie. I have - I'm having a hard time with this because, you know, we see their memo, obviously people have questions about it. But I'm worried that I'll take it harder for ICANN to implement what the policy is if they're not comfortable with what the designation is. And so I prefer the language that the small team came up with which at least gave flexibility so that we could go either way. And I guess I'm really struggling with how that impacts our recommendations, I'd like to understand why it's a problem to give that flexibility to ICANN.

Gina Bartlett: Anyone want to speak to that? Yes, Milton. And if everybody could stay brief that would be great.

Milton Mueller: Milton Mueller. So I think Thomas explained very well why we need to - why they would want to go away from that. So the - ICANN's legal memo has already indicated they're uncomfortable with the joint controllership idea so if the process involves negotiation between the contracted parties and ICANN over who has responsibility for what, it's clear that ICANN's tendency is to avoid joint controllership. So if we think the joint controllership is the best model, a subject on which I am not expert enough to have a strong opinion, but if indeed the lawyers among us think that it is, then we should definitely say that in our recommendation and let ICANN respond to that.

Gina Bartlett: So what would the specific text be? What would be the specific text? If somebody could be thinking about that how we would modify the recommendation that would be great. Alan G, did I go to you or are you next? Alan G, Georgios, Diane and Margie, are you still in? Okay.

Alan Greenberg: Okay. I neither have the legal expertise to be an expert on this, nor have I had a chance to read the memo. So I'd like to ask a question. I'm hearing things here which imply that ICANN may want to take the position that the contracted parties are a sole controller because I've heard words saying that ICANN is not a controller. I thought I had heard, and from the very brief reading, that ICANN was suggesting joint independent controllers or whatever the right word, is multiple independent controllers, as opposed to - as opposed to not being a controller.

ICANN is setting the rules. We sit in PDP meetings and set the rules. There is no way that ICANN cannot have some controller relationship, some controller responsibilities in my mind; it's inconceivable. Now, whether they are a joint controller or two independent controllers, or they are sole controller and have data processing agreements with all the contracted parties, I think is an interesting discussion. But do people here really believe there is - that ICANN is attempting to say they have no controller relationship at all?

If that's one of the things on the table, then that's something I have enough expertise to discuss and, you know, and I think it's a different discussion than I thought we were having here because this memo - this updated 13 says, "ICANN should enter a JPA or data processing agreements with the contracted parties," which implies it's the sole controller. So we seem to be mentioning something which I didn't even think was on the table here and I'm confused. Thank you.

Gina Bartlett: Thomas, did you want to briefly reply or you just want in the thread - the queue? So is it queue? Okay, Georgios and then Diane and then I'll come back to Thomas. And then I we should check in.

Georgios Tselentis: Yes, Georgios Tselentis from the GAC. On this issue again I'm not also an expert on this, but I have to clarify something also given the comments that were submitted that when we talk about joint controllership we are not talking about equal responsibilities here, we are talking about regarding the processing activity that is under scrutiny about the controllership, the relevant responsibility under the agreement. So we have to have, I understand that we have to have a better analysis of what processing activity we are discussing about, but then each one has to take the responsibility for the controllership that is processor about this activity.

So there is an analysis that has to be made. It doesn't mean that - joint controller doesn't mean that you have to have equal responsibility, it refers to the processing activity, and as soon as we clarify this I think all pieces of the puzzle will fall into place. So I don't believe that there is a good strategy to say, and here I will agree with what Stephanie and Thomas said before, we should keep this idea of the joint controllership; what we have to do is to identify the processing activities and what this controllership (unintelligible) to them.

Gina Bartlett: Thank you, Georgios. Diane. And I've got Ruth in there.

Diane Plaut: Sure. Georgios, your comments makes a lot of sense and to add to that, we really - our work and our mission was to evaluate both make a factual analysis and apply the law and that's what we've done, so we have done an extensive factual analysis based upon the different data elements and the legal bases and we've set up processes. And now we no matter what, has to come out with some type of something to support all that and to take all of that and make a recommendation. So by making the recommendation that a JCA is believed to exist, supports the work that we've done and so it ties it together.

To land with nothing is really not giving the Board the capability to move our work forward. And so we have to think of it as a big picture all tied together. And so a recommendation that I would like to put forward is to update Recommendation 13 to simply eliminate when it says, "data protection agreements such as data processing agreement, Article 28," to just eliminate that component. And then we're still saying "enters into required data protection agreements such as joint controller agreement as appropriate." And so we're making a recommendation...

Gina Bartlett: Okay.

Diane Plaut: ...and we're trying to support the work and giving the Board the power and the tools that they need to go forward with our policy.

Gina Bartlett: Great. Thank you for the concrete suggestion. So I'm just going to repeat it. If you're looking at the proposed updated language the concrete suggestion is, "ICANN.org negotiates and enters into required data protection agreements such as joint controller agreement as appropriate." If people - as I continue on, I know some are trying to clarify questions, but if you could express support for that modified language that would be helpful. Thomas. I had Thomas, Emily, Ruth, Chris.

Thomas Rickert: So you were asking for concrete proposals. I think that the initial report language has everything that we need. It has the concrete...

Gina Bartlett: Thomas, I'm sorry, I really - you weren't here yesterday morning but I'd like you to try to work from the proposed updated language because we're trying to - we defer to the small team and all the work that they did so if you could just factor that into your thoughts? We're trying to - the small team spent a lot of time working up the proposed language.

Thomas Rickert: I've been part of that, I know, it was a painful process. So I would need to consider alternative language then.

Gina Bartlett: Okay, could you look at that and then come back because we really did have that as a ground rule yesterday and I'm sorry you weren't here when we set that up. Emily.

Emily Taylor: Personally I have no strong opinion on the wording of this, I'll just get that out. But I can see that others around the room do feel strongly about it and it followed, as Dan said in his remarks just before this discussion, it follows on quite closely from the discussions we've just had and the ICANN memo, so there's a lot of new stuff going through the - through our tired brains in addition, you know, and that are superseded to some extent the work of the small teams.

As we have Ruth here, and, you know, as we have engaged her, and I don't want to put you on the spot, Ruth, because I know we've just had an exposition from ICANN's lawyers on it; I don't want to put you on the spot to either agree or disagree. But if you have any input that can help us on this issue I would really welcome it.

Gina Bartlett: Ruth, you're up and then I'll go to Chris and then I'm going to see if we can move forward on the language.

Ruth Boardman: Okay, so thank you, Emily. I had two suggestions. The first is from having read the memo that came out and from having read, albeit rather quickly, some of the previous documentation, it seems to me that there are some areas where I think people cross purposes and where with a smaller discussion we could narrow down where there is disagreement or where there is doubt. So I would suggest possibly a smaller discussion on that to try and narrow, as I say, the areas where there's uncertainty.

Secondly, I agree with I think a number of comments that were made that this is an area where, I think as you said actually Emily, where two people are who are perfectly rational can simply disagree over the analysis. It's a very complicated and difficult area. One possible approach which ICANN and the other contracting parties may want to think about if they've tried to narrow down areas of uncertainty is to discuss this with EDPB, for example, with a view to getting guidance there, which might reduce uncertainty again.

Gina Bartlett: Okay. So thank you, Ruth. I'm going to go to Chris. And I think our charge here right now, maybe Marika can confirm, is that we are trying to get to the final report so I think what we have as our charge today is to try to make sure that you've been responsive to the public comments, the proposed language reflects that, and then there can still be all of these follow-on activities and discussions but we're trying to be responsive to public comments in the final report. Chris.

Chris Disspain: Thank you. Chris Disspain. I think that the - I have no issue with the proposed updated language and I have no issue with the suggestion to take out the reference to data processing agreement and leave the only specific reference as joint controller agreement; I don't think it makes any difference but I'm happy to do that.

I have a major issue with making a recommendation that simply says, "joint controller agreement." I think - that says "enter into joint controller agreement" I think that that removes all flexibility contracted parties may want ICANN in

certain circumstances to be a sole controller and may in certain circumstances want ICANN to be a joint controller with them and to make the assumption that the right answer for everything is a joint controller agreement especially in circumstances where there is conflicting legal advice.

Conflicting may be too strong a word, but advice of different types from different people and where we're being told by pretty much everybody with a legal understanding of GDPR that these things are difficult to assess. And it's not necessarily that easy to come up with the right answer. And sometimes there's more than one answer. To remove the flexibility by mandating in a recommendation that it should be joint controller agreement is in my view, not a sensible way forward. But I stress that's just my personal view and I thank you for allowing me to state it.

Gina Bartlett: Okay. So I'm going to go to Thomas but then I'm going to come back and check with you all. The proposal on the table right now is "require data protection agreements such as joint controller agreements, as appropriate, with the contracted parties." So I'm going to come back to you and ask, is there anyone - is there any group that can't live with the updated proposal given the insights to date and given the public comments received on the initial report? Thomas.

Thomas Rickert: Yes, you've asked for concrete suggestions, so my proposed language would be the EPDP team recommends that ICANN Org negotiates and enters into a joint controller agreement unless legal advice or other input suggests otherwise with the contracted parties so that we have the joint controller agreement as the starting point because I guess it will help the Board hugely to be comfortable in moving forward with that, which otherwise they might not be able to.

Gina Bartlett: Could you please read it one more time? "Enters into a joint controller agreement unless..."

Thomas Rickert: “Unless legal advice or other input suggests otherwise.”

Gina Bartlett: So I want to go back to Chris who just said that he was less comfortable with the idea of directing to joint controller agreement only. Does that - can you - is that something you can live with?

Chris Disspain: I have no - I have no rights to say I can or can't live with it. But that said, I'm comfortable as long as there's the flexibility in there. If you want - if the EPDP team wants to make a sort of comment that gives a clear impression that they believe that the most likely outcome of this is a joint controller agreement, I have no issue with that provided that, there's the flexibility of doing something else in the event that that something else is what's required.

That said, from a legal point of view, I would want - can you just read back the words again for me? Please?

Gina Bartlett: You want to just read it, Thomas, since you have it.

Chris Disspain: It's the end bit, Thomas, the bit where it says when you can't - when you shouldn't do it.

Thomas Rickert: “Enters into a joint controller agreement unless legal advice or other input suggests otherwise.” You know, my point is that we have the joint controller agreement as the status quo...

Chris Disspain: I get it, yes. I mean...

((Crosstalk))

Thomas Rickert: Unless you find better words for that...

Chris Disspain: I'm just wondering if it would be clearer if it said, “Unless legal advice or other input indicates another form of agreement,” would be more appropriate.

Gina Bartlett: That's okay?

((Crosstalk))

Chris Disspain: But that I think gives a clearer - what would happen if you didn't have that.

Gina Bartlett: Can you just say it one more time, Chris? And...

((Crosstalk))

Chris Disspain: Whatever Thomas's words were, legal advice...

((Crosstalk))

Gina Bartlett: "Legal advice or other..."

Chris Disspain: ...input indicates a different form of agreement would be more appropriate.

Gina Bartlett: Okay.

Chris Disspain: The problem with that of course is that it doesn't allow for the possibility of no agreement which is also a possibility, isn't it, Ruth? So if we're clear that we understand that sort of the direction we're heading in and everybody's comfortable with the general direction I'm sure we can find the right words for it.

Gina Bartlett: Okay. Okay, so it sounds like - I'm going to go to Alan and then I'm going to check if in everybody's okay with this approach and then maybe we'll pause and try to type up some language, but it sounds like we have agreement, just like we did with Purpose 7, you know what I mean, where we just did - so, Alan, to you and then I'm going to check in with everybody.

Alan Greenberg: Thank you. I guess I've got to register a level of discomfort that we seem to be working in a mode that whoever speaks last gets to modify the document and you don't go forward - you don't go backwards again. And I have heard very, very few voices around this table, other than Thomas and I think Stephanie, saying it's clear it's a joint processor...

((Crosstalk))

Thomas Rickert: ...and Diane.

Alan Greenberg: Okay, I take it back. I'm just not comfortable that, you know, we edit in one direction only and we either have to accept that or propose something different.

Gina Bartlett: I may have misread the room but I was sensing that there was some really strong feelings and if we had a bit of an out that the others could live with it, so that's - maybe that was my mistake, Alan, but I was picking that up and trying to work with that proposal.

Alan Greenberg: I guess I look at the small team work in this case as being a waste of time because it's being discarded and, you know, just going back to where we were before. And I don't feel comfortable with that. I can live with it; I don't feel comfortable.

Gina Bartlett: Okay. Margie. Oh and then I'm sorry, Kurt, I'll go to Margie and then come to you because I overlooked Margie.

Margie Milam: Sure. And I've been one of those voices that I wanted to give ICANN the flexibility. And with Thomas's language I actually think that we have a memo that provides otherwise so I almost think the carve-out's already been met by the memo we just received. So I'm inclined to go with what Diane had suggested, I don't know, earlier, and she...

Gina Bartlett: Okay.

Margie Milam: ...her language was a little closer, I mean, somewhere in between what Thomas is saying. But I feel that Thomas's language doesn't work for me.

((Crosstalk))

Gina Bartlett: Yes, Kurt.

Kurt Pritz: Okay. So what's unique about this discussion is nobody spoke up in favor of the proposed update even though there is, you know, it came from somewhere.

Alan Greenberg: Excuse me, we were never asked that question, we were only asked who opposed it.

Gina Bartlett: Well I thought that we needed to ask - I am responsible because I thought I understood that from Marika's intro that we needed to see based on the new information if we needed to modify the language.

Kurt Pritz: So what I'd like to do at this point is take a look at what's been said in this meeting, take that back, we'll modify, we'll create another version of this so the team can look at that version that incorporates the comments of the team around the table to avoid what the phenomena Alan was talking about, and then bring this up for discussion tomorrow.

Gina Bartlett: Okay. Okay thank you.

Kurt Pritz: And then so we can have a balanced discussion between the proponents of the modification, which is different from the - what the language where it talked about is. And then so everyone, I'd like you to re-engage for 55 minutes, so try to just - you can do it...

((Crosstalk))

Kurt Pritz: Yes. I'd like to re-engage for 55 minutes and try to get to a conclusion Purpose 2. So we've reiterated this and I think we can talk to it. Go ahead.

Marc Anderson: Thanks, Kurt. This is Marc Anderson. You know, Alan and I have been sitting here on the sidelines a little bit for this conversation and, you know, feeling like we have to speak but not exactly sure what to say here. You know, and I think, you know, where Alan and I are, you know, going back to our direction from yesterday, you know, I think we feel that we should place deference on what the small team came up with.

There's a, you know, I think we set a pretty high bar for that. I think that this address - you know, this proposed updated language addresses the public comments. It addresses the, you know, the Registry's comments so from our perspective, you know, it meets our needs. You know, that's, you know, I understand Thomas's point and frustration, you know, I can respect and appreciate that. But I think this is - you know, the proposed language coming out of the small team, that's, you know, that's the language. You know, you scared me a little bit when you talked about coming up with new language that we're going to come back and review again, I think we need to remember the bar we set yesterday when we came to agreement on a lot of the small team recommendations and, you know, I think, you know, just remind ourselves of that bar here and is this language we can move on with?

Kurt Pritz: Yes, thanks for your comment. And I didn't mean to day in creating different language that we would give it more deference than what the small team did. What I was trying to reset was having the discussion where the proponents of the small team recommendation took part in the discussion which they hadn't up until one minute ago, so we'll - and I have some thoughts about how to reset the discussion too so that's what I prefer to do. But I do understand your comment and we will treat the small team output with the deference that we all agreed to in the first place and having the next discussion about it.

David Plumb: So we're going to find - we're going to find a time to have that small thing happen, that small conversation happen, and hopefully be very quick. Yes. Okay. So that's as far as we're going to go right now on Recommendation 13. Could I get the folks in the back to put my screen on the - my computer on the screen please?

So it seems like if we can close this day or leave this room with everybody willing to walk forward on Purpose 2 we can leave this room with our heads pretty high. Right now I think that people are feeling a little bit down because we couldn't quite nail Purpose 2. We just had a long drawn-out discussion that some people have varying degrees of interest level on.

So let's circle back to Purpose 2. I've been having a few just sort of side conversations with a few folks to see if we actually do have a place that - maybe we're not thrilled with but we certainly can walk forward and call it a consensus agreement, okay? So let's try it out with everybody just now and see how it flows, okay?

What it involves is the following, it's that version of Purpose 2 sort of original version that came out of that small group over here in the corner. That would be the version we go forward with. Okay? Doesn't have "when necessary" or "when appropriate" or whatever that phrase was in there. It's the sort of original version coming out of that group, okay?

And then in recommendation we do the following, we have the recommendation that also came out of that group with a few changes. There's an initial footnote, which I'll show you down in a second, Footnote 1, which is the footnote that says we shouldn't - actually let's just scroll down to it. The other way, sorry, I'm backwards for most people. The first footnote is, "Purpose 2 should not preclude disclosure in the course of investigating intellectual property infringement." Okay? So it's what we talked about in

terms of the footnote around intellectual property so that nobody can come back later and say, no, no, no, Purpose 2 doesn't include IP.

We also add a second footnote in which is essentially the language that Stephanie had proposed. It has one tiny modification to that language when it talks about the proposed Purpose 2 in this report is a placeholder. Okay? That was not language that Stephanie said but I just showed it to Stephanie and Milton and the crew over there and they seem to feel okay with that, okay? So what we've done here is we've given a signal that we're going to keep working on this; we're going to keep working on this, which was a signal that a lot of you wanted to give. Okay? And it's in another footnote right next to the footnote on IP.

And if you scroll back up a little bit, the final thing I did was separate out what you asked me to separate out which is this issue about disclosure for legitimate purposes is not incompatible with the purposes for which such data has been collected, just separate that out in a different sentence. We started the sentence, "Finally, when looking at these issues the EPDP team will seek to ensure..." Okay.

Sure, why don't we scroll down to the footnote? And sorry, it doesn't - you can't quite get the whole thing on one page easily. Can you all read that?

Woman: Yes, Amr in the AC room is asking whether we can post that document to the...

David Plumb: Oh great idea.

Woman: ...to the chat.

David Plumb: Yes that's going to take a second for me to do. I'm going to have to do that later just sorry about that, Amr, and I apologize for that. You probably can email it. Yes. But you don't need to save it to cloud. Yes. So, folks, while

that's happening, have a good read at this; have a good read of what's here. No. Yes, okay. So this is what we've done, folks. We're at a place that we don't love necessarily but we're at a place where we're willing to walk forward. Stephanie, help us out here in allowing us to walk forward.

Stephanie Perrin: Stephanie Perrin for the record. And I'm all for walking forward as long as it isn't over into - over a cliff, into a court, you know? And I just wonder where that little paragraph about seeking to ensure that the disclosure is not incompatible with the purposes. I mean...

((Crosstalk))

Stephanie Perrin: ...that goes without saying; that's the law. You know, do we need that?

((Crosstalk))

Stephanie Perrin: It will seek to ensure - we have to ensure.

David Plumb: Okay.

Stephanie Perrin: I think - I don't know, maybe somebody - maybe legal counsel even said put that in but it gives me a very watery feeling when we say we will seek to ensure that...

David Plumb: Okay.

((Crosstalk))

Stephanie Perrin: ...that we will comply with the law.

David Plumb: Any phrase that you want to put in there is a great phrase right now, folks. The "seek to ensure," "will respect," will whatever you all can put in the language that makes you feel comfortable. But I feel like...

((Crosstalk))

Mark Svancarek: Why don't we just "ensure."

David Plumb: Will ensure. Okay.

Alan Greenberg: Can we go back to the...

David Plumb: Hold on. Hold on. Wait.

((Crosstalk))

David Plumb: Wait. Okay. Okay, hang on, everybody calm down for one second. Yes, so all I want to say is this was previously in there and everybody liked it but we didn't have that initial piece, right? So all we need to do is find the language to introduce this thought, right? So all we need is - someone can make a suggestion, how do we introduce this thought that starts right here? We need the thought - we need a few words to introduce this thought, that's all that needs to happen right now. So if you have some words, great, this is - this should be like this, right, this is not controversial, it's just - so, folks, I see a lot of hands but I want to make sure we're going down that path, right?

Okay, I'm going to go Hadia and then I'm going to go Becky, then I'm going to go Milton, then I'm going to come back over here. Yes, okay, Hadia, let's do this super fast. I feel like this is a win here.

Hadia Elminiawi: So Hadia Elminiawi for the record. So I like your proposal. I agree with it. I had only one question with regard to the...

((Crosstalk))

Hadia Elminiawi: ...part - to the - yes, to the red part where it says “finally when looking at these issues the EPDP team will seek to ensure that disclosure for legitimate purposes,” I’m not sure that we need to put “for legitimate purposes.” I’m just asking why do we need to have that. Why don’t we just say “will seek to ensure that disclosure of registration data is not incompatible with the purposes for which such data has been collected.” So that’s my only comment...

David Plumb: Okay.

Hadia Elminiawi: But I would take out “legitimate purposes.”

David Plumb: Okay. Okay. Great.

Hadia Elminiawi: And there is a reason for that.

David Plumb: Okay great. Alan, you just joining the queue right now?

Alan Greenberg: All I want know, can you put the footnote back up without popups popping up so we can actually read it?

David Plumb: Yes, I’m sorry. I can’t fit it all on one screen at one time. But what I could do is email to all of you so you have it on your screen or ask Marika to do that.

Alan Greenberg: You asked us to read it before but then Gina was playing with the screen and we never actually saw it.

((Crosstalk))

Gina Bartlett: ...so we can send it out.

David Plumb: Sure, I can definitely - why don’t you take over...

((Crosstalk))

Gina Bartlett: She got it. Okay, Marika got it.

((Crosstalk))

David Plumb: Great. And sorry about that these challenges of trying to read in real time, okay? All right, Emily.

Emily Taylor: I had a suggested text change...

David Plumb: Great.

Emily Taylor: ...which is to delete from "finally..."

David Plumb: Yes.

Emily Taylor: ...to...

David Plumb: That. And just start with disclosure.

Emily Taylor: And then just say, either you just have it like that or you could say something like, "The EPDP team notes that..."

David Plumb: "The EPDP team notes that disclosure for..."

Emily Taylor: We just want a way to launch in, right?

David Plumb: Yes.

Emily Taylor: ...or have been advised that or is of the opinion that.

David Plumb: Must not - right.

Emily Taylor: Or observes that.

David Plumb: Observes that but then the “is” becomes a “must” or something like that.

((Crosstalk))

David Plumb: Acknowledges. Okay.

Emily Taylor: Then to be clear my proposal is that you leave the rest of the sentence as drafted.

David Plumb: Great.

((Crosstalk))

David Plumb: Okay. So great, let's keep moving and then maybe we'll all just like take a deep breath, we'll write this up real quick and we'll look at it one more time. Milton.

Milton Mueller: Yes I think that the suggestions that Emily made actually completely defeat the purpose of this addition. And we can solve the problem by simply saying instead of “will seek to” we just replace that with “must.” In other words...

((Crosstalk))

Milton Mueller: In other words we can't - this is not something Emily, that we can acknowledge or that we can say it will happen unless we ensure that it happens. When we're dealing with disclosure policy we have to make sure that the disclosure is not incompatible with the purpose for which the data has been collected.

David Plumb: Right.

Milton Mueller: That's a requirement on us; that's not some acknowledgement of a universal fact.

David Plumb: Right, so you could put this and change it to "must." Okay great. Let's take a few more comments and then let's just take the temperature. Folks, listen up, we're so, so close, we're just so close. Kavouss.

Kavouss Arasteh: I don't know who has written that text saying that EPDP will seek to ensure; it is too strong. We could say that first of all we don't need to say "finally" we could say that "EPDP noted that the disclosure for legitimate," (pa-ta-ta-tee) so on so forth. We should not see "seek to ensure." We cannot engage ourself in any future activities; no one is...

David Plumb: Okay.

Kavouss Arasteh: ...in a position to do that. This is forbidden, thank you.

David Plumb: Kavouss, can I check something with you real quick, which is what Milton suggested is just saying, "The team must ensure that disclosure is compatible."

Kavouss Arasteh: "It is noted that the EPDP noted that the disclosure for legitimate purpose is not incompatible with the purpose for which that data has been collected."

David Plumb: Okay.

Kavouss Arasteh: Thank you.

Gina Bartlett: David, can I jump in for a second?

David Plumb: Yes.

Gina Bartlett: I just want to do a little quick check-in on a much higher level. We have a purpose. We have a recommendation that is to drive your good thinking, serve as a reminder for what you're going to go deep on in Phase 2. That is the purpose of this recommendation language as I understand it. And then we have the footnotes so that some other elements don't get lost that were important to everyone in this room. I'm just going to observe we have been word-smithing most of the day and it's not to say that the ideas are all important, but I just want to ask you to - if there's any way you can have a little bit of latitude in policy language in a recommendation that's to inform your future work.

So let's pick up where we were at but I'm hearing directly contradictory - directly contradictory words coming from every person we're going to. So I just want to put a little bit of onus back on everybody to remind ourselves where we're at and that we're trying to do and why we're asking to have this language.

David Plumb: Yes, super helpful. I think we are a - just a hair's breadth away from agreeing on the most difficult purpose in the whole document, okay. So I wonder if you guys would give us the trust to sit down with whoever really cares and figure out the right word whether it's "must" or whatever and then we just call this done, okay. Would you give us the trust to go sit down with a couple folks and figure out the right word to put it front before the sentence starts here, just the right word here whether it's "must" or whatever it is, give us the responsibility to do that with anybody who cares very strongly about it.

James Bladel: Absolutely trust you to do that as long as that group does not include me.

David Plumb: Okay. So folks, I just want to test...

((Crosstalk))

David Plumb: Yes. So we have all this stuff that we've put together now, as Gina says, we are so close. So I want to test, would you give us the trust, with whoever wants to come sit down with us after we finish our meeting today at 6:45, fix these words, fix this intro so we're not running into trouble, right. This is the meat; this is what we care about. We'll fix that, trust us to do it. So in that context, can we all walk forward and live with Purpose 2, okay, with this recommendation, Number 2, with now it's two footnotes? Can we walk forward and call it a done deal?

Okay, I see two cards up. That's new as well, Kavouss? Okay. So let me start with Alan. Folks we're trying to move forward here, right?

((Crosstalk))

David Plumb: Oh yes. No, nobody...

Alan Greenberg: Alan's comment was if you let us old and feeble ones actually read the footnotes. It's now on the screen. If you move a little bit I can read it. Thank you.

Gina Bartlett: Who was the second card that was up?

David Plumb: Mark. Mark, what you got to say?

Marc Anderson: You know, I guess I sort of share Alan's frustration. I haven't been able to see the full text that we're being asked to agree to so, you know, being able to see the full text would be nice. I'm not...

((Crosstalk))

Marc Anderson: ...quite sure...

Marika Konings: It's in Adobe Connect.

Gina Bartlett: It's in Adobe Connect if you could look at it. So maybe we'll take...

David Plumb: Take five minutes...

Gina Bartlett: Let's take five minutes...

Marc Anderson: Okay, but I have another...

Gina Bartlett: Oh sorry, Marc.

Marc Anderson: I have another point I want to make. You know, so the text you're trying to fix is from the GDPR, it's you know, Article 5, you know, Section B of the GDPR, right, there's 1(b), sorry. So, you know, it's not, you know, there's no, you know, you don't fix the text of the GDPR, right? And so you're giving me pause you know, you're saying trust me to fix the intro text to language that's from the GDPR itself. Right? And so that's giving me a little bit of a pause there.

You know, Alan and I were just talking like that's part of the GDPR, right, we don't...

Gina Bartlett: "The EPDP team will seek..."

Marc Anderson: No, the language that Ruth gave us...

David Plumb: Yes.

Marc Anderson: If you scroll up on the screen...

David Plumb: I don't if everyone's done.

Gina Bartlett: Alan, do you have the text in front of you so we could scroll? Alan G? Do you have the text now? Okay.

((Crosstalk))

David Plumb: I want to be super clear, Marc, that when I said "trust" I said for anything that leads up to the text that's the GDPR text. No one's touching that "disclosure for legitimate purposes" no one's touching that. All we're saying is what is the three or four words that need to say, you know, the team recognizes this reality, that's all we're trying to figure out. There's nothing that's touching the actual - okay. Yes.

Marc Anderson: We've been at it all day.

David Plumb: Yes.

Marc Anderson: And you've got a bone and you're holding onto it. It's time to sleep on it.

((Crosstalk))

David Plumb: Let's take five minute and read. May I make a counter suggestion and take five minutes and read and talk. I think if we go home without this tonight...

((Crosstalk))

Gina Bartlett: Okay, it's 6:10. I'm going to do five minutes for reading and then I'll give you five minutes for consultation.

David Plumb: Yes.

Gina Bartlett: It's 6:09.

((Crosstalk))

Gina Bartlett: Five minutes. James...

((Crosstalk))

David Plumb: Hang on a second. Wait, wait...

((Crosstalk))

Gina Bartlett: Okay. That's five minutes. So that was five minutes. We're about five minutes so I'm going to give a couple more minute to talk to your colleagues to see if we can come to closure. I'm all with the Stockholm syndrome in this particular circumstance.

((Crosstalk))

Gina Bartlett: The timer is flashing that we're out of time. I'm trying to remember what we were going to talk about. Okay, okay we're going to get started again if that's possible. It's 6:20, we're breaking at 6:45. While people are wrapping up, we are going to ask to start early tomorrow morning because so many people are leaving. So I was thinking like 7:00 am.

((Crosstalk))

Gina Bartlett: Okay, how about 7:30? People are leaving at 3:00. Okay.

((Crosstalk))

Gina Bartlett: So I'm going to confess, I'm going to confess the request was 7:30 and I said 7:00 so I would get a little shock value and then I could like go to 7:30. Okay, where are we, David? So everybody had a chance to talk to their team. Is there anyone - oh we have new language for this clause, "The EPDP team

would need to confirm that disclosure for legitimate purposes is not compatible...”

((Crosstalk))

Gina Bartlett: Oh, I'm sorry, "...is not incompatible with the purposes for which such data has been collected.”

((Crosstalk))

Gina Bartlett: ...must - okay before I go to comments, before I go to comments - before I go to comments I just need to see a sign of hands before I go to comments. Is there any group that cannot live with this proposal? I just want to check and then I'm going to go to the comments. Is there any group that cannot live with this proposal? Anybody who cannot live with it? Okay. So Stephanie cannot live with it. Stephanie, let's hear from you and then...

Stephanie Perrin: It is not the responsibility of the EPDP team to confirm the disclosures for legitimate purposes are not incompatible with the purposes. That is the responsibility of the controllers or joint controllers. So you could put, "Joint controllers, or controllers, must confirm that the disclosure for legitimate purposes are not incompatible with the purposes for which such data has been collected." But you're saying that we have to do it and that is a deep down into the weeds on implementation because each particular disclosure is going to, let the record show that Benedict is nodding, maybe he's nodding as his laptop but...

((Crosstalk))

Gina Bartlett: Okay I've got a lot - I've got Alan, Kavouss, Margie. As brief as you possibly can be would be wonderful. Alan.

Alan Greenberg: Here's a first for a while, I agree with Stephanie.

Gina Bartlett: Okay. Stephanie...

Alan Greenberg: She's not listening.

Gina Bartlett: Agrees with Stephanie.

Alan Greenberg: You cannot say that we're going to check any particular disclosure without knowing what the purpose is and what the - it just makes no sense.

Gina Bartlett: Okay thank you, Alan. Kavouss.

Kavouss Arasteh: Yes, if everybody is happy with the second one, "EPDP notes that," I have no problem. But I was told that we should not note at this stage. If this second one is accepted by everybody I have no problem. For the first one if the people are not happy with the EPDP we put it in the passive voice and saying that there is a need to confirm that. So please delete that the first - "The EPDP team needs," there is a need to - no at the beginning, first one. Not this one. Yes.

Alan Greenberg: You may want to eliminate the word...

((Crosstalk))

Kavouss Arasteh: Delete "EPDP" - yes. There is a need to confirm.

Alan Greenberg: Yes.

Kavouss Arasteh: Who will do that? I don't know. There is a need to confirm that, so any of the two is acceptable for me.

Gina Bartlett: Thank you for your flexibility, Kavouss. Margie, as brief as you can be to make your point.

Margie Milam: Sure. Oh good you got joint. The other option was just, you know, delete it and we'll get to it later but, I mean, this is - this would be fine too.

Gina Bartlett: Both of those are fine for you? Both are fine for Margie. Marc Anderson. Stephanie, can you...

Stephanie Perrin: I'm okay. You're missing an article up above, "a need to confirm."

Gina Bartlett: There is a need to confirm. Okay. So which one are we doing, the top one?

((Crosstalk))

Gina Bartlett: Okay. Is there any group that cannot live with this proposal for Purpose 2? I feel like a need drum roll. Purpose 2, and Recommendation 2 with the appropriate footnote and guidance in Recommendation 2 to inform the next phase. Alan.

Alan Greenberg: I'm going to make a note, and I don't expect to debate it or fix it here, in all of our discussions we have, by accident or not, omitted law enforcement as from one of the groups that may be able to get access under an access method. And I'd like note that for future discussion.

David Plumb: Okay.

Gina Bartlett: It's 6:26. We did it.

David Plumb: So I just want to note (unintelligible). It feels like - and I hope it's not purely from exhaustion, I really hope it's not purely from exhaustion, but it feels like we have a pathway forward on the most vexing thing, okay. And this only works is if everyone around this table is willing to go back to their respective constituencies and say, yes, it was really a pain in the butt but we got to this place and it's okay. We can live with this for XYZ reason. Okay. All right?

So that's, you know, that's where this is going to work. But I want to say I'm super proud. I know it's a really difficult thing. We're not going to try to load anything else on you tonight, right, no?

((Crosstalk))

David Plumb: Task master.

((Crosstalk))

David Plumb: Yes. Yes. So what...

((Crosstalk))

David Plumb: No, they're the angry mob. The issue here is what's our start time tomorrow?

Gina Bartlett: Seven thirty.

((Crosstalk))

Gina Bartlett: Seven thirty.

David Plumb: We've got...

((Crosstalk))

Gina Bartlett: So I'm just going to say we have a bit of a dilemma because we booked the room...

((Crosstalk))

David Plumb: Let's show the thing...

Gina Bartlett: I really want to encourage everyone to please step up and come at 7:30, come on. This is the last face to face before the final report. We have...

((Crosstalk))

Gina Bartlett: ...all of those pieces, David, I don't know why you're taking those off, but we have all of those pieces...

David Plumb: This is what we got to do.

((Crosstalk))

Gina Bartlett: We have the start items that you prioritized, we have at least three of those that we have not even touched - four - we have four of those.

David Plumb: We have all this to do.

Gina Bartlett: Recommendation 1, the other purposes, the split for Purpose 1 I have not seen that language. Who's crafting the language for the Purpose 1 split?

((Crosstalk))

David Plumb: No, that's not it.

Gina Bartlett: So the Registries? So...

Marc Anderson: So I don't think we had - so it's the proposed language in our comments is - we don't have new language beyond what was in the Registry Stakeholder Group comments so those...

((Crosstalk))

Marc Anderson: Yes.

((Crosstalk))

Gina Bartlett: The Purpose 1 proposed language is in the Registries comments in the PCRT for Purpose 1? Okay. James, it looks like you're poised to say something?

James Bladel: Well just that we had that also - that qualifier of as subject to the terms and conditions, and we just wanted that with both parts of whatever split there was and we were good.

Gina Bartlett: Okay. Hadia.

Hadia Elminiawi: Hadia Elminiawi for the record.

((Crosstalk))

Hadia Elminiawi: So I guess we already agreed to what they had for the purpose split - the language they had for splitting the purpose but I think what we were waiting to see was the data elements. So we said we are fine with everything that they suggested but we needed to look at the data elements.

Gina Bartlett: Okay. So why don't we dust off that language just for tomorrow morning to make sure that everybody's clear that that's the agreement and then when we get to the data elements it might need to be tweaked or refined. Stephanie, thanks for waiting, I overlooked you.

Stephanie Perrin: Thanks. Stephanie Perrin for the record. Just a question, availability, and I do understand if you have to leave early you have to leave early, but that's why we have alternates. Can they pull in the alternates to replace them for the remaining time rather than have us start at five o'clock?

Gina Bartlett: The time was - we were going to start at 7:30.

Stephanie Perrin: I know, that as a joke because I was looking at your agenda.

Gina Bartlett: Oh. Oh.

David Plumb: Should we say this...

((Crosstalk))

David Plumb: Bless you.

Alan Greenberg: Can we make the coffee and preferably some sort of starch is here before we get here?

David Plumb: Yes...

((Crosstalk))

Gina Bartlett: Breakfast opens at 6:30, breakfast opens at 6:30 and you could probably get a to-go box.

James Bladel: Yes, and you can go across the street to the donut shop too.

David Plumb: And we will have coffee here too, Terri says.

Alan Greenberg: Yes.

Gina Bartlett: We will have coffee.

Alan Greenberg: I'm just asking to make sure it's here then but not at 8:00.

David Plumb: Not at 8:00, yes.

Gina Bartlett: Marc, are you in the queue? Okay.

David Plumb: James is.

James Bladel: Yes, just noting on the agenda, and I'm sorry to point out that when we started this circus we said that we needed - we could not leave Toronto without talking about some implementation approach or plan. We have an idea...

((Crosstalk))

David Plumb: Where is this? I don't see it.

Gina Bartlett: It's not on there.

((Crosstalk))

David Plumb: I don't see it.

Man: No, David, if you could do that, that would be impressive.

James Bladel: The good news, David and Gina, and everyone, is that we have an idea that I think really - I don't want to say everybody will agree to, I don't think...

((Crosstalk))

Gina Bartlett: Can you float it right now? Let's hear it.

James Bladel: Is that - because I'm assuming we're going to go right up to the wire with this EPDP is that the temporary spec and the EPDP recommendations coexist for some period of time, and we're thinking until January 2020 - January 1, 2020. That gives us time to turn the battleship and get all this stuff coded.

David Plumb: Okay.

Gina Bartlett: Say it one more time a little more slowly.

James Bladel: That - and okay and it's essentially - and I can already see staff is like - their heads are spinning around that this is not - we're coloring way outside the lines, that the temporary spec, or at least the obligations of the temporary spec would remain enforceable alongside of the EPDP adopted recommendations, whatever they look like...

Alan Greenberg: So we will make a policy recommendation to keep the temporary spec in there, in parallel...

((Crosstalk))

James Bladel: We can't call it that though.

((Crosstalk))

Alan Greenberg: No, no, that something be in place as a specification identical to the temporary spec or close.

((Crosstalk))

James Bladel: Transition specification...

((Crosstalk))

David Plumb: Oh guys, guys, okay.

((Crosstalk))

David Plumb: Great.

Mark Svancarek: We'll write it up; we'll talk about it tomorrow.

Gina Bartlett: We're going to talk about it tomorrow. I invited them to just give us the overview so we understood what it was. Okay, it's Stephanie, did you have a comment? We weren't going to go into it; I just asked them to flag it so we heard what it was. Go ahead.

Stephanie Perrin: I was just going to submit that all you need to do is copy everything from the temp spec and put it in as an appendix as a temporary policy - interim policy.

((Crosstalk))

Stephanie Perrin: Easy.

David Plumb: Okay great.

Gina Bartlett: So I think the priorities for tomorrow - the priorities for tomorrow are we're going to revisit Purpose 1, which sounds like out of the public comment, we'll look at the split with the introductory clause for both. We need to pick up Recommendation 4 and 8, so 4 is the data elements to be collected by registrants and 8 is redaction. Twelve was also what you all had prioritized; 13 we have to come back to, I have a proposal for that. And then Recommendation 1, I know is important and then the implementation so it's pretty full. So we may have to re-prioritize.

((Crosstalk))

David Plumb: Yes. We can bring lunch in.

((Crosstalk))

Gina Bartlett: Okay. Worst case scenario we walk over, get our lunch and then put it in a box and come back.

James Bladel: Can we start the day with a shot clock on interventions instead of reaching for it at 4:50 pm?

Gina Bartlett: Start what?

David Plumb: Yes.

James Bladel: A shot clock on interventions and...

David Plumb: Like maximum two minutes per person kind of thing?

Gina Bartlett: Oh yes. So we're also getting feedback, which I know was in a lot of the threads to have more limited interventions, that we try to really modify to maybe two minutes and that was something that had gone around. I know a number of you had commented on. Yes?

((Crosstalk))

Gina Bartlett: Okay, 7:30 am, you can get your breakfast to go, 7:30. James, I'm going to come find you.

((Crosstalk))

Gina Bartlett: Okay.

((Crosstalk))

Gina Bartlett: Matt, I'm going to come get you.

David Plumb: You're on the verge of making history, folks. You can do it. Look at all the stuff you've done, you've got this much to go, it's possible but you got to go for it.

Gina Bartlett: Seven thirty.

David Plumb: We'll see you at 7:30.

Gina Bartlett: Two minute interventions. Be ready to work hard and you're going to work through lunch. Quick break for lunch and we're going to work hard. Okay? Thank you all. Thank you so much. I know it's hard work. Have a great night.

((Crosstalk))

END