

**ICANN
Transcription
EPDP on the Temporary Specification for gTLD Registration Data
F2F Meeting - Day 3
Friday, 18 January 2019 at 20:45 UTC**

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David Plumb: Okay, what do you say we get rolling here? So folks, this is an opportunity. Think of this as more like small group discussion, right, we really don't have everybody here now so we're not going to pretend that we're doing some plenary conversation so that's the spirit of this conversation now. We've got a bunch of stuff that could be useful for some advancing the ball, teasing out what's really important, seeing where we have some differences and seeing if there's some pathways to play on.

I'm going to grab off this list here, this first one to work on, which could be a bit of a doozy, but then again let's see where we are on it. This is Recommendation 12 which is reasonable access, okay, because it's a particularly sensitive issue it's a good one to use for when we're all together here, or when this skeleton crew is together. So I think it's important to do our - a similar approach as last time is we have Caitlin and Marika, we have a table on the public comment, right.

So if you look up on your computers, Recommendation 12, you can go into the summary table of comment and you can go into the detailed comments. And why don't we just take five minutes and read through that. We don't need a whole conferring with your team necessarily.

((Crosstalk))

David Plumb: Wait a minute. They swapped out.

((Crosstalk))

David Plumb: But let's do that, let's take five minutes, let's open up those documents, let's look through those documents and then let's see where we are in trying to name really what the issues are at stake for you all to resolve in your final report, okay? So let's take those five minutes. Thanks, Terri, for putting that up.

Woman: May I have your attention? May I have your attention please? The fire department has fully investigated and silenced the alarm and has given us the all-clear. I repeat the fire department has fully investigated the source of the alarm and has given us the all clear. All elevators will be back in service momentarily. Thank you.

David Plumb: Did you hear that, everyone? We survived. For those of you on the bridge.

Woman: May I have your attention? May I have your attention please? The fire department has fully investigated and silenced the alarm and has given us the all-clear. I repeat the fire department has fully investigated the source of the alarm and has given us the all clear. All elevators will be back in service momentarily. Thank you so much.

David Plumb: All right, guys. So you guys want to pull this into the main group? Okay, so let's pull it into the main group guys. Thanks. Assumption was not totally off base. All right, guys, let's pull it all back into the main group here. Okay. Great. We will have Ruth with us for another hour or so it's - we can take advantage her here to pose some questions, etcetera.

Woman: May I have your attention? May I have your attention please? The fire department has given us the all-clear and we will reset all elevators momentarily. Thank you so much for your patience.

David Plumb: We at least get one more of them probably two more where the elevators are activated.

((Crosstalk))

David Plumb: I think minimum three, minimum three. Okay...

((Crosstalk))

David Plumb: Okay so just before we're finishing up, I noticed that Alan and Alan - I thought is my brain really that slow right now? Alan and Alan were talking. And I know that Alan - and we were talking as well, so Alan, you have some ideas about where we left off this discussion, Alan Greenberg that is. And I wonder if that's a way to kick off sort of where we stand right now on this and how the public impact - the public comment impacts all that? Alan, do you want to give us sort of a sense of where you think we all stand?

Alan Greenberg: We discussed this somewhat - oh, let's let Marika talk first. No.

((Crosstalk))

David Plumb: Steve's in the queue, great, thanks.

Alan Greenberg: Okay. We had a rather extensive discussion about this and I think it was in the first plenary after the New Year before we decided to break up into two small groups, but I'm not sure, but I know we discussed it this year. And it was an interesting discussion because there was a fair amount of movement in terms of what we could do. And I think the conclusion was that yes, we could probably do something to simplify the procedure or clarify the

procedure or something, the procedure in place today; this is prior to anything we do in the long-term.

And the feeling was we couldn't really come to closure on that call, either we ran out of time or energy or something. And I know - both the Alans were a significant part of that discussion and I know Alan Woods had said that we really should - I at one point said we're not going to be able to do it for the final report and Alan, you know, was much more positive than I was and said if we discuss it in Toronto maybe we can do something just to clarify procedures, provide some level of uniformity among contracted parties or...

David Plumb: Okay.

Alan Greenberg: ...see expectations properly so that people aren't complaining or use another word, quite as much as they are now. Now that's my recollection; Alan may have a different one.

David Plumb: Okay. Go ahead Alan Woods, yes, and then I'll go into the queue in line, yes.

Alan Woods: Alan Woods for the record. Yes, so I do actually remember that. And because, you know, it's so rare that I'm optimistic. Yes, I think a lot of people were worried that there was going to be difficulty in this one again and, you know, we went down a path of despair. But again, I remember that we had - we were pleasantly surprised when we first tackled this way back when. I think - I can't even say when it was.

David Plumb: I remember.

Alan Woods: Yes, because we all assume that we're going to jump off at the wrong platform basically but we all knew that this was about the process and the processing of the request not necessarily the result of that request. I mean, obviously from - coming from the public comments, a lot of people are pointing out that in its current form it is unfinished and it's - it needs, you

know, tweaking of the language and changing of the language and actually creation of the language.

I think the - where the conversation needs to like is setting a reasonable expectation that gives comfort to people who are making those requests but still allows enough flexibility from the person who has to deal with the request because there are so many different requirements such as the nature of the request itself, the, you know, whether or not further legal, you know, opinion might be necessary in a particular instance.

If there is a - a negative response that we provide the reasons behind that response, provide a reasonable opportunity for them to come back, you know, don't just be unreasonable in the response.

I mean, I think we can (go onto) to a list ourselves where we could come up with those reasonable but not overly restrictive things but if we start throwing into things like, you know, you have 72 hours to respond to a request, then, you know, obviously we're going to go that's just unreasonable and we can't do that. So, I mean, I do think that this is something that we could easily come to an agreement on because it is about, you know, just being common sense, reasonable in an approach to how to display that.

David Plumb: Great. What a nice way to open this up, yes. Okay. Let me quick jump in online. Steve, do you still want to jump in here?

Steve DelBianco: Yes please. Can you me all right?

David Plumb: Please go ahead.

Steve DelBianco: Thank you. I too (unintelligible)...

David Plumb: Steve, you're cutting in and out unfortunately so we can't hear you very well. Maybe you can try...

Steve DelBianco: All right, we'll try it this way. Can you hear me? I just (unintelligible).

David Plumb: Honestly, Steve, unfortunately you really are cutting in and out. I'm wondering if you want to take a - do a quick check on what your mic setup is and then I'll come back to you in just a few minutes. And Terri might have a solution for you. I'll come back to you in just a second, Steve. Alex, why don't you jump in here and then we'll get back to Steve.

Alex Deacon: Yes, thanks. It's Alex. Yes so I agree, Alan. I think you know, we've discussed this concept in this group but also I remember at the last ICANN there was quite a lot of discussions about how we could make this process better for all. And I think you mentioned two words, which I think are important, reasonable and practical. Another one I would throw in from our side is predictable. And I think the list that we have is the right major bullets.

And I think we could probably go quite far with filling in some of the details about what do those mean, so for example, it says, format by which requests should be made. We could talk about what fields, you know, are required and statements may be needed and we could talk about timelines. I think we could be perfectly reasonable around those. So yes, so I guess the question is how do we...

David Plumb: How do we go?

Alex Deacon: How do we go? Yes.

David Plumb: Can I ask a quick question of people who aren't in the Contracted Party House and those who aren't the most typical ones making requests like this side of the table down here? What, if anything, do you want to add into the story? Because it seems to me a logical next step is to sit down in a sort of smallish group, some folks from the Contracted Party House and some folks from those who are making a lot of requests and have them do exactly what

they say they want to do. What input do you all want to have on that? Hey, Ben, why don't you go ahead?

Ben Butler: Since you asked this end of the table...

David Plumb: Yes.

Ben Butler: I'll just say in general SSAC is completely in agreement with the way Alan Woods phrased things. I was part of the deliberation on this that led to the list that we have in front of us. I think if we actually - if we spend some time trying to address these bullet points and flesh them out, and just one last thing to tack onto what - to what the IP folks would like in terms of adding predictability, I totally agree, and just want to note that predictability - and this is a pain point for contracted parties - that's a two-way street.

If there's a predictable format that the requests come in to contracted parties and a predictable format of what those responses look like, it makes the ecosystem better for everybody.

David Plumb: Right, okay. Anybody else here, I don't know, maybe from the Non Commercial? I'm just curious because what I think would be a logical next step would be to say, let's pause it now amongst all of us and let you guys take that and run with it, right, and see where it goes, but I'm just checking in, Milton, you put your card up.

((Crosstalk))

David Plumb: Okay.

Milton Mueller: So...

David Plumb: Okay.

Milton Mueller: ...I really like the comments - public comments made by Go Daddy in which they said we need to distinguish between different categories of requestors. Are we talking about law enforcement requests, are we talking about private parties? And are we talking about pseudonymized access for research purposes? So in terms of those bullet points, I have no particular objection; like to see them fleshed out but we would want to add a categorization of the requestors along those lines.

David Plumb: Okay. Great. Thanks, Milton. So let me jump online and I'll try Steve again. Steve, how's your mic working now?

Steve DelBianco: You tell me.

David Plumb: Oh that sounds better.

Steve DelBianco: All right great. Thanks. This should be easy to resolve. Nearly all of the (unintelligible) there were two categories (unintelligible) and I think that Milton just identified one (unintelligible). There are two kinds of public comments that raised concerns (unintelligible) that they misread the recommendation. The recommendation does not require - it merely requires (unintelligible) response where the contracted party (unintelligible). So there is no requirement. (Unintelligible) the standardized form would indicate what kind of (unintelligible) although it's (unintelligible) to decide whether under (unintelligible) want to disclose.

There were also some comments that...

((Crosstalk))

David Plumb: Hey, Steve, can I just interrupt you for a second because unfortunately you really - we get about 50%-60% unfortunately of what you're saying but it sounded like what you were saying is there was a slight misinterpretation of what's required and you would be able to distinguish on a sort of standard

form what kind of requestor is requesting. But unfortunately for some reason you keep cutting out on us. I wonder if you could type into the chat your second point you were just about to do and then - and I really apologize, we really just can't hear...

Steve DelBianco: No worries. I'll do it. Just move on. Thanks.

David Plumb: I really apologize. Farzaneh, you want to jump in?

Farzaneh Badii: Farzaneh Badii (unintelligible).

David Plumb: Okay. We couldn't hear you very well either but if you guys can use the chat maybe that's the smart way. And we'll keep an eye on the chat, okay. So then is a general willingness for a conversation to happen to flesh out the bullets and to put a little bit more meat around that bone, right, using the keywords of reasonable, practical and predicable and using the existing bullets more or less as the guide and just providing some more content on that, yes? Am I hearing that right? In addition to what - and Milton's saying, don't forget there's different kinds of requestors and that should be part of this conversation as well.

Milton Mueller: Another thing I don't want you to forget and that is that...

David Plumb: Yes.

Milton Mueller: ...this is a placeholder, right? This is as long as all we have is the temp spec or some, you know, new policy this is not the complete system of standardized access for lawful disclosure; this is - so we can't try to make it into that, I think we'll get stalled if we do.

David Plumb: Wonderful. Is that exactly how everyone else is understanding this as well? Yes. Okay, I see some nodding heads around the table. Okay, great. Alan, please.

Alan Greenberg: Thank you. I am agreeing however. What I put my card up for was to remind everyone that maybe the term “quick and dirty” is not quite appropriate but this is a side job we decided to take on to make life - people’s life easier, both the contracted parties and the people making the requests but it’s not our day job. So let’s not get overambitious in refining it too much.

David Plumb: Great.

Alan Greenberg: So I strongly support what Milton said.

David Plumb: Wonderful, okay. You want to bring us home, Alan Woods.

Alan Woods: So bring us to an issue - not an issue, a complication. So just I want to deal with one word that Steve did - we did hear from Steve and that was the use of the term “standardized forms.” I really must caution against the concept that we’re ever going to get anywhere near a standardized form because again...

David Plumb: Okay.

Alan Woods: ...each individual registry or registrar is going to be in a different jurisdiction, there will always be quirks within the form. As long as we know what are the core elements that should always be present, good. But not a standardized form, we cannot go down that road because it will not end well.

David Plumb: Great. So that’s a nice, you know, way to put it. There may be core elements that we want to have in these forms, we do not want to talk about standardized forms.

Alan Greenberg: We may want a standardized way of finding out where the form is though.

David Plumb: Careful. Okay. Kavouss, please, jump in on this.

Kavouss Arasteh: Yes, are you discussing this topic here, 12?

David Plumb: Yes.

Kavouss Arasteh: Yes.

David Plumb: Yes.

Kavouss Arasteh: Please correct me, I am lost. Where and how we have decided to replace or modify the term “standardized access” to parameters for responding and so on so forth. Access is a different action from parameters, two different things. I don't recall that we have agreed to that.

David Plumb: Yes so thanks, Kavouss. That change was in your initial report which suggests that there was some agreement to get it in the initial report. So - and I don't know that that there was any public comment on that particular point. Maybe there was, I don't know. So just as a point of clarity, that's not something new that's happened since the initial report; that was in the initial report.

Kavouss Arasteh: Still I'm not clear on that initial report that the parameter replace access model, parameters is different. You could have parameters and put all those parameters in the model. But is not replaceable. Not replaceable, you cannot replace standardized access model, which we want to discuss at Phase 2, with something which is called parameters to responding so on so forth; this is the not the same thing.

David Plumb: Thanks, Kavouss. I think Alan Greenberg wants to try. And I want to be careful about the words we're using here.

Alan Greenberg: I thought I made it clear when I introduced the subject; obviously not quite. The recommendation here says “do nothing until we have the access model.” And the access model is a Phase 2 issue. During the discussion two weeks

ago on the teleconference, on the plenary call on I believe January 3, we came to the conclusion that the current process is too painful for both sides of the party and if we could do something on an interim basis to make it a little bit predictable and easy and whatever, that we should, as a side project, do that and we would modify this recommendation slightly to say we were doing that. That's where the parameters came in.

The parameters we're talking about are the parameters on an application prior to the access model. They exist today because each registry and registrar has put in place a procedure. We're just saying can we do something to clean that up a little bit and make life easier for people?

David Plumb: Right.

Alan Greenberg: I hope that's...

((Crosstalk))

David Plumb: And also this is not about a standardized access model, right? This is the charter question that says, "Please look at this reference of reasonable access in the temp spec and react to it." So again it's separate from the model.

Alan Greenberg: We're looking at putting a bit of process on the current ad hoc procedures.

David Plumb: Great. Okay. That clear, Kavouss?

Kavouss Arasteh: Not yet. I have no problem with the term "reasonable" I have question from the very beginning of the second meeting, I've raised it with the chair that I don't understand that. But I have difficulty to replace standardized access with parameters. But if Alan mentioned that parameters would be some sort of prerequisite to have that standardized access, I have no problem.

David Plumb: Okay.

Kavouss Arasteh: But we should be - it is not here. I am - I read everything very carefully, this is my job. This does not say this is a prerequisite arrangement to facilitate the standardized access. It says that to modify this term "standardized access" so on so forth with this one; this is the case. From legal point of view is this unless what Alan mentioned would be inserted here to say that in order to have this and that standardized access, we need to have parameters to facilitate that standardized access to be totally divide or developed or so on so forth. Could you, Alan, kindly clarify issue? I was not in that meeting that you mentioned.

Alan Greenberg: Kavouss, you raise an interesting thing. And by doing this ad hoc work to make life simpler we probably will learn a bit that will help us design the access model later. So from that point of view I think you're right.

David Plumb: Alan Woods, and then I'm going to go over to Marika and Steve, yes.

Alan Woods: Thank you, Alan Woods. I actually, even, Kavouss, this is going back to October meetings and in fact I believe - I'm just going into the - delving into the archives here and the team meeting 20 where we talked about the outcomes of small team 3, which was specifically this recommendation. And this was wording that was put in there in small team 3. And I find it odd that we're hearing after the interim report and in January, now talking about words that were put in nearly three months ago. So I mean, can we just have a little bit of perspective here? We know there's an awful lot of work comes through but, you know, this has been on the table for a very long time so.

David Plumb: Yes, okay. So let me - I know that, Marika, you want to say something and you have a chat comment from Steve that he was trying to make.

Marika Konings: Yes thanks, David. This is Marika. So Steve put the following comments in the chat. "Public comments that raise concerns are misunderstanding this

recommendation. Sarah's comment suggests these disclosures are required; they are not. This is not unified access, this is a disclosure request that would still need to be available after UAM but because not everyone will be accredited and eligible for UAM those requestors would still use this method. So to Milton, this is not a placeholder."

And if I can make an additional comment on that myself. My question is, it sounds like this is maybe a small team conversation...

David Plumb: Yes.

Marika Konings: ...so I'm just trying to get a sense of when we should schedule a call for that group and...

((Crosstalk))

Marika Konings: ...come back with their homework...

David Plumb: Right.

Marika Konings: ...being very cognizant of the timeframe we're looking at.

David Plumb: Yes, I would say honestly let's try to do something in the - that would be of importance to all of us and then we'll maybe cut and we'll stop and then you guys can have that conversation, maybe I do another conversation with somebody else, but maybe do it right this afternoon, yes. It's still not that late right now, right, because we were ending at 3:30, okay.

All right. What else needs to be said on this? I see Thomas and then I'll go back to Kavouss, yes.

Thomas Rickert: Yes, I think Marika's read-out was quite interesting in that, you know, we have certain criteria that need to be met for what we now call reasonable

access, or reasonable disclosure or whatever, and then the UAM. The way I see it, the UAM adds additional complexity to the disclosure part, so the disclosure part deals with, you know, what data can you lawfully disclose to third parties, to requestors, and the UAM part then discusses whether you can have a semi-automated system where people can self-serve with data based on an accreditation of whatever shape or form.

But have you guys given some thought to how we should approach this? Are we actually building different classes of requests? And then we could actually start fleshing out criteria for honoring requests. And maybe it's worthwhile discussing, you know, so that everyone can think about the individual scenarios, what these classes of requests would be, whether those are requests to be answered based on a regime enforced by ICANN or whether that's rather something that should be dealt with under national law by the individual contracted parties. If you don't want the discussion now, let me know.

David Plumb: I'm feeling - this, you know, urge to say, hey, Thomas, that sounds like something you would talk about in that next phase of when you're talking about a more standard system for disclosure, right?

((Crosstalk))

David Plumb: That sounds like a much lower bar of what's happening which is let's flesh out some details on those bullet points about what kind of process should these parties expect to interact with in the meantime.

Thomas Rickert: I mean, you're right for the - for one half of it...

David Plumb: Yes.

Thomas Rickert: ...for the next phase. But I think that the other half is something that we should start worrying about more or less today or as soon as we can. And

then we can decide whether we have the bandwidth to add our findings to our final report or to what extent we have to push it to the second phase. You know, there are, you know, there are responses to civil claims, pursuit of civil claims; there are law enforcement requests, all of which would fall under the category of reasonable access, but you can talk about what scenarios you want to cover.

David Plumb: If I'm hearing you right, are you saying kind of the same thing that Milton was trying to say of like let's play out these different scenarios and it might change the way we're answering these questions, is that what you're saying?

Thomas Rickert: Well I guess I'd really like to get to a level of granularity where we can maybe even task sub teams with - or Ruth with looking at things where we can't really get further by ourselves. I mean, we had these discussions in part over the last year or 1.5 even, and we got stuck at certain points. And maybe Ruth can help out with a response.

David Plumb: Okay. I saw Alan like shoot up his card when the word "granularity" came up. But Hadia first. And Kavouss, I got to get - real quick, let me just jump on Kavouss and then I'm going to come right back. Kavouss, you had put your card back up; what's going on? Yes, please.

Kavouss Arasteh: Alex mentioned that it is the regime that will be used until the time that we complete the access. It means that this modified version is on a temporary - not temporary - on a interim basis. I have no problem with that. Therefore in the recommendation, in the recommend part, we say recommend that so on so forth, on an interim basis until the time that standardized access is completed. We could not judge and change the term before we discuss that. You could not put the cart before the horse.

((Crosstalk))

David Plumb: So you're...

Kavouss Arasteh: ...could not just be just the result of discussions. At Phase 2 we will discuss. If after discussion we come to the conclusion that standardized access term is not a good term we have to change it, we could change it. However, if in the meantime we can use this term as proposed I have no problem, but we have to add to this recommendation, "on an interim basis."

David Plumb: Okay thanks, Kavouss. So that makes sense.

Kavouss Arasteh: That is something (unintelligible) otherwise we have serious problem and difficulty and reservation with respect to this. Thank you. Because it is - first of all I have not participated, this small A, small B, ad hoc, there are so many things is difficult to follow. And second, it is not easy at this stage before completing the studies on the access we try to change the name of access. This is influencing the result of the studies, this is prejudging the result of the studies. It is not correct and I do not agree with that. And I thank you very much.

David Plumb: Okay. So in terms of specific suggestion of calling this interim, does that make sense to people? Is this interim? It's not - is it interim? Okay, Hadia then Alan, then Alex, and then let's see if we can put this to bed.

Hadia Elminiawi: Hadia Elminiawi for the record. So I would like to go back to what Steve just said in the chat because this is actually really important. So what Steve said here that actually because what we recommend is for this to remain in place until we have a standardized access system. And what Steve is saying now, look, folks, standardized access system will not be handling some of the cases and, yes, and will not handle all of the cases and we might remain with whatever we agree on here with respect to some cases of disclosure.

And I agree, the standardized access system will definitely not be appropriate for all categories. So - but then this was not our understanding when we put this recommendation. So we need to be clear here, you know, is it really - is it

the case that whatever we put here will - would remain with us for those categories that do not fall under the standardized access system or not? Because this is not what we were thinking about when we made this recommendation.

David Plumb: Hadia, would it be fair to say that that question that you're asking is actually very hard to answer before you go through the next step of talking about it? So I wonder if you want to flag it in your recommendation saying, we're actually not quite sure what will happen but we'll look for, you know, these are the kinds of things we'll be looking at when we take this up in our Phase 2. See what I'm saying? Instead of having some definitive answer like this phase on, or this is temporary, this is the word Kavouss used - you have to say we don't know, but we are flagging this as an issue.

Hadia Elminiawi: I totally agree. And I only made that comment because of Steve's comment.

David Plumb: Excellent.

Hadia Elminiawi: Thank you.

David Plumb: Okay, Alan, you shot up your card right when the word "granular" came out.

Alan Greenberg: No, that wasn't when I...

David Plumb: Okay.

Alan Greenberg: Well it may have when I did it but not because of that.

David Plumb: Okay.

Alan Greenberg: In terms of interim, as Hadia and others have said, there will be requests after the access model is in place if it ever is in place, which will not fall - not be authenticated and will need a procedure, whether it is the one we're talking

about today or a brand new one we come up with in our wisdom after we've designed the access model, who knows?

David Plumb: Right.

Alan Greenberg: So this may be a temporary thing, it may be interim, it may be the one we decide to keep; it's a decision down the road.

David Plumb: Right.

Alan Greenberg: However, my hand went up when Thomas and others were starting to talk about details. All we need to do today is decide to reword this recommendation slightly to say that the current procedures, or variants thereof, will remain in place until we have an access model, you know, and we can add some words about going forward like we just said. We don't need to decide the details here. It would be nice if we get them done soon. All we need to do is figure out the wording for the final report. Thank you.

David Plumb: Excellent. Alex and then Alan, oh and Kurt, I didn't know you were in the queue. I'm sorry. No, no, Alex, go ahead and then I'll come back to you.

Alex Deacon: Yes just to clarify that, you know, a point I typed in the chat. I mean, I agree with Steve that - and with Alan just said, I think it is important that some form of access to those who may not be accredited in the future is available and how we make that happen procedurally I think we could still discuss but I agree it's an important - it's an important concept that we need to consider and, you know, make sure is specified sufficiently.

David Plumb: Okay great. Kurt and then I'm going to run back to Alan. Kurt.

Kurt Pritz: It was in response to Hadia really. And so I also think Steve's comment is a very good one. And so we need to recognize that the charter for Phase 2 is much broader than a semi-automated system but it's to provide access

including the ways, you know, including the requirements that Steve mentioned, so I wanted to mention that. But so what the timing of writing these quick and dirty...

((Crosstalk))

David Plumb: I think this afternoon, that was what I was hoping for. When we finish up what we want to do here, a couple people sit down, see if they can flush out those bullets into something a little more meaningful and take it from there and take in the comments that we're hearing so that you can propose some new language. Yes.

Alan Woods: Yes, Alan Woods for the record. So just with regard to Steve's point and Hadia's point and yourself, Alan, as well, let's just call a spade a spade; this is still a legal obligation of a data controller that we will always have to answer these requests. This is us saying, yes, let's make it a bit easier for us all to do. So let's not make this more than what it is. This is us meeting in the middle and trying to be reasonable. And I think it's just sparring a little bit, so I really want to just get down to them and what would make it reasonable and a bit more predictable, obviously not the answer being predictable but the process being predictable and let's just do it.

David Plumb: Great. Okay. James, do you have anything to add to that comment?

James Bladel: No, go ahead. I was going to respond to - I can respond in the chat.

David Plumb: Okay great. Okay. Kavouss, is that an old card?

Kavouss Arasteh: I was about to write a new language and the new language should be as follows, "EPDP team recommends that until the time that a standardized access is studied and decided upon, the current procedures or current practice, starting with parameters for responding," so on so forth, "be used." I have no problem, on an interim basis - on an interim basis. So there is a need

to change that that we do not prejudge (without) of a study. We may agree to replace it totally after the study but not now. We may not have any standardized access at all, I don't know yet, but not now. We don't decide at this stage. This has - this would bias the study totally. Thank you.

David Plumb: So I would just say to close that off it sounds like the message from Kavouss is be careful in the first paragraph so that nobody can read it like you are making some statement around standardized access or how that's going to be. So I think take a look at that and see if there's any way to misconstrue, okay?

Alan Greenberg: We have spent hours around this table and similar tables agonizing over wording. We have a relatively large paragraph and several bullet points which were agreed to by consensus. I think we want to modify them as little as possible at this point to factor in what we are now committing to do.

David Plumb: Okay.

Alan Greenberg: This is not the time, late on a Friday afternoon, to start coming up with new wording unless they're absolutely necessary to send the message we need to send right now.

David Plumb: Right.

Alan Greenberg: So I beg, let's make as few changes as possible.

David Plumb: Wonderful, okay. So just to clarify what's happening, even this afternoon, hopefully when we break, a couple folks, I'm looking over here sort of in this corner can sit down and see how you could flesh out the bullets, all right, that's the real essence of what we're talking about. Milton and others asked you to think about the categorization and the type of requestor but use these reasonable, practical and predictable and be attentive to how people might misconstrue.

Okay. Anything else? Yes, Caitlin.

Caitlin Tubergen: Thanks, David. This is Caitlin Tubergen, ICANN Org. I just wanted to note that we inadvertently left the GAC comment off of the summary table so we're going to include it in the room so that we can ensure that it was part of the consideration of the changes of this recommendation.

David Plumb: Excellent. Thanks for catching that. Okay. All right, guys, so that's that. That's actually very helpful and maybe would be spectacularly helpful depending on how that works a little bit later. Okay. So given that we have a touch more time here, another one that's on our list for dealing with is Recommendation 7. I don't know, Marika, if you want to help me tee this up, Recommendation 7? Yes.

But this is the one about contractual compliance. And somebody had written ARS, and that wasn't me, so I'm not sure why it got written in this as a flag to remind me to do something. But Marika, if you want to pull that up and we can just do our usual thing, again, what we can do is provide some guidance at a minimum, with all of us here, quickly name what needs to be addressed. If we think we can address some of it quickly, let's do it; if not we'll push it back but at least we've named the issues, okay?

So do we have a table on Recommendation 7? No sorry, but everyone else can go look for it, right? So guys, if you - folks, if you could quickly just pull up on your laptops the summary table of comments on Recommendation 7, which is around contractual compliance? And let's take a peek at that, let's spend five minutes to look at it very quickly and then we're going to bring it back to the room. Yes, Marc.

Marc Anderson: Quick question on that, so the - you wrote ARS in there, Alan teed that up I think it was earlier this morning, it seems like a lifetime ago, maybe it wasn't this morning, but...

David Plumb: ARS is the purpose around...

Marc Anderson: It was one of the - so the first - the Table 1 we looked at, it was one of the outstanding items.

((Crosstalk))

David Plumb: ARS is what we talked about the additional purpose around ARS?

Marc Anderson: Yes it was Recommendation 1, it was the table that had like items, you know, the list of items that, you know, it was the question about what items aren't included in Recommendation 1...

David Plumb: Yes.

Marc Anderson: So it was sort of your catch-all what isn't covered.

David Plumb: Yes, people who want additional...

((Crosstalk))

Marc Anderson: And one of them was the ALAC submission on ARS and Alan sort of introduced that this morning.

David Plumb: So, yes.

Marc Anderson: The discussion though that might fit or might have an impact...

David Plumb: That's what it was here for.

Marc Anderson: ...the contractual compliance discussion that we're getting to now. And then so my request for Alan maybe when we break, you know, so we were talking

like what, you know, so the registries I think proposed splitting contractual compliance piece into two different parts...

David Plumb: Yes.

Marc Anderson: If you could take a look at the current language is, you know, my thought, is there a way to take your concern about ARS and match it with the new compliance language? I don't know that there is or isn't, but maybe that's something you could look at on the break?

Alan Greenberg: I will look.

David Plumb: Okay that's great. So let's take the five minutes and look at the Recommendation 7 summary table and the full comments. And if you want to have - maybe do have a little conversation with your neighbor about this and see what's the "there" there that we need to worry about in reviewing this. So let's take those five minutes, let's go ahead and read it. Have a conversation about this, the compliance issues that come up.

All right, we're just going to stretch out a couple minutes, sorry.

((Crosstalk))

David Plumb: All right, guys.

((Crosstalk))

David Plumb: All right, guys, I'm going to need if you want to keep going you can do it outside because we need to bring it back in, all right. Okay, so let's do our usual thing here, folks. After your careful and measured review of the public comment, what are the issues at stake that we need to work through as a group on this? What are the actual issues here that emerge that we have to deal with related to this particular recommendation? Remember this isn't the

purpose, this is the recommendation on compliance. What are the issues, folks? What needs to be addressed? Anything? Nothing? Is the recommendation okay as it stands?

I know. People are slowing down. What needs to - do we need to do anything here? Yes, Marika.

Marika Konings: Yes thanks, David. This is Marika. One thing I did get from the comments is that some seem to think or imply from the recommendation that, you know, with any compliance request all that data would be sent to compliance and at least what I understand from the Compliance is that, you know, whatever request they make they consider carefully what is needed and would only ask for those data elements needed.

So we may need to clarify that just because there's this long list of data elements it does not mean that for every request that Compliance makes they expect to receive all that data. So that was maybe just a suggestion that...

David Plumb: All right.

Marika Konings: ...may help clarify that.

David Plumb: Right. So the amount of data in the workbooks is sort of an aggregate of anything possible, it's not on any individual request, you need all those data points, okay. So we could be more specific in the recommendation about that. Okay. What else, folks? Do we need to do anything or is this fine? Do we just move forward with this? You guys too tired to keep going?

((Crosstalk))

David Plumb: Yes. Alan.

Alan Greenberg: My only concern about being too specific here is we don't want to create a very - make a simple job difficult. You know, if for Compliance for every request they have to, you know, go into a chart and see exactly what type of request it is so I know which subset of elements I'm going to request, we can make a job which otherwise would be easy, complex. And I just want to make sure we're not going to do that - be too prescriptive at this point.

David Plumb: Great. And so...

((Crosstalk))

Alan Greenberg: Say we should minimize data element transfer, fine; but let's not be too specific.

David Plumb: So, Alan, just to be clear, you're comfortable the way it is now and what you're reacting to is if you want to say you don't always need all those elements, don't make something prescriptive about what elements you actually need, is that correct? Okay, great. Yes. Alan.

Alan Woods: Thank you. Alan Woods for the record. So it could be case I'm tired but this may seem cranky but like this is one of those things from my reading of it that is very important why - and I find it very difficult for us as an EPDP team to be able to come up with such a list or decide what compliance needs in order to do their job.

David Plumb: Right, and I don't think anybody actually suggests that...

Alan Woods: I know but this is where, you know, I really, really love if ICANN had come to the table much more willingly with certain things saying this is what we need to do our job and told us this so we could have moved forward easily.

David Plumb: Yes.

Alan Woods: And so is a bit of a frustration one for me.

David Plumb: Okay. I have - Marika, can you jump on there because I have a sense that there's actually a different narrative there, yes.

Marika Konings: Yes thanks, David. This is Marika. You know, Compliance has come to the table several times and I think they've basically said, you know, whatever is required in the contracts is what we need to enforce. So...

((Crosstalk))

Marika Konings: ...well you know, it would be helpful then if you say why that is not good enough or what you would expect them to say. I know there was also a memo I think that they provided on the - their processing activities and mapping. That memo I think was also shared, so...

((Crosstalk))

Marika Konings: So I think if there are specific questions we're happy to take those back, that would make it easier indeed, you know, to get the answers that you're primarily looking for.

David Plumb: Okay. Marc, do you want to jump in on that and then Alex and then Thomas.

Marc Anderson: I want to make sure - you know, I guess looking at this requirement, you know, my first thing is, you know, this is a recommendation to change contracts for registries and registrars. And so, you know, we're giving, you know, as part of this we're giving instructions to lawyers to open up contracts and make changes to them and so there, you know, we need to make sure we're telling them exactly what they, you know, what those - what the end results of those should be.

And we're, you know, in this language we're saying, you know, consistent with the data element workbooks and so I'll just, you know, I'll first say, you know, I have hesitation with that, you know, and part of it I'll just sort of note, you know, the Registry's concerns, you know, we have sort of overarching concern that, you know, there are many aspects of those workbooks that this group didn't specifically deliberate on and that's sort of individually noted in the Registry comments on this one as well.

And I know, you know, we've already talked about, you know, our plan, you know, we're...

((Crosstalk))

David Plumb: ...going to guide you through, yes.

Marc Anderson: ...those workbooks. So I guess the first - the first thing I'd say is, you know, I think, you know, I think what would make Registries more comfortable with this recommendation is, you know, if, you know, we have that separate review of the workbooks, you know, we've had a chance to go through those and rather than reference the workbooks themselves if we're very explicit in the recommendation as to what we think should be, you know, how we think these contracts should be modified I think that would get us more comfortable with that. And I guess I'll look over to Registrars to see how they feel because we're talking about their contracts as well.

David Plumb: Right. And just before I jump to Alex and Thomas and Alan I just - and Marika - but I just want to say, Marc, real quick, you say you'd be more comfortable if you're - if there's more about the how? That seems like something we would have to get - put some language on like ASAP, right, if you want to...

Marc Anderson: Maybe I said that - I don't want - what I was suggesting is we shouldn't be referencing the workbooks, you know, by, you know, we shouldn't be

incorporating the workbooks by reference into a policy recommendation; we should say explicitly what we want to say in the recommendation itself.

David Plumb: I see. So you say we want these data elements. You still could reference, as put on Page 53 of the workbook, but...

Marc Anderson: No, I want to put...

David Plumb: The actual...

Marc Anderson: ...these data elements in the policy recommendation itself.

David Plumb: Okay. Fine. All right. Alex.

Alex Deacon: Thanks. It's Alex. I mean, I think we all - well I can't speak for you but I think we all want a result where ICANN gets the data it needs to do its job and to meet its obligations, right, I think that's the goal, so we need to kind of maybe work back from that to ensure both with the purpose and this recommendation that we end up in that spot. And, you know, in LA I remember asking Compliance, is there ever a case - is there any - have they run into issues with getting access to data to do their job and Maguy said, yes, and so that was a concern. Whether that's still the case I don't know, but if it is, you know, we need to make sure that that's addressed.

And then the third point I wanted to make is that there's also this issue around the legal basis, right, which I think the workbooks is now 6.1(f), I understand why - the reason why 6.1(f) has been placed there. But given the importance of Compliance and the fact that it's ICANN and not kind of just a random third party it seems to be inadequate to me so I just thought I'd mention that.

David Plumb: So maybe think about when you do the review of the workbook do a test on that legal basis. Okay. Thomas and then Alan and then I'm going to come back to Marika.

Thomas Rickert: Yes, I know that we've talked to folks from Compliance and I know that they have sent a memo but at least for me it would make my life far easier if we got a record of processing activities from Compliance as to what they are doing, exactly how long they're going to keep what data for what Compliance action. Because we are sort of second guessing what their needs might be and then frame - reverse engineer that into a purpose or into a recommendation.

So I'd rather have a recommendation that links to an appendix which lists those things and then we can give everything that ICANN Compliance does today it's blessing. And at the same time we can make this list exhaustive so that we know that no other things are happening with the data unless, you know, contract changes or policy changes require. So in that case the list or the record of processing activities could be amended. But I find it extremely difficult to do this absent having the very specific information from ICANN Compliance.

David Plumb: Thanks, Thomas. Alan, then I want to jump over here because I imagine there might be some...

Alan Greenberg: Thank you. Alan Greenberg. I'm not sure if I'm supposed to put on my Milton Mueller hat before saying this, but why do we need a recommendation? Isn't this just part of the discussion we're going to have on access?

David Plumb: I don't know. Yes.

Alan Woods: Just very quickly...

((Crosstalk))

Alan Greenberg: If I may just finish? If ARS and OCTO are going to be recipients, other parts of ICANN that we'll discuss in access, why aren't we discussing this in access or conversely, why don't we need separate recommendations for those two?

Alan Woods: Alan Woods for the record. So the problem we have here of course is that ICANN is a controller; they don't need to apply for access because they are a controller in this controlling - this controlling - in this ecosystem.

((Crosstalk))

Alan Woods: Yes, but this is - again this is ICANN need to say, you know, we need access in X for Y reason on legal basis, whatever. I mean, we can do that for them but they need to tell us as well what they need it for so we can put that into the purposes. And, you know, we can't make this stuff up. I know and I understand that Marika is saying, you know, that it's in the contracts but that's not good enough for us to know what they do in their day to day basis, what data do they use? Why do they need it? You know, it's - we're putting, again, I've said this before, we're putting the cart before the horse hugely on this and it's just...

Alan Greenberg: That doesn't answer my question. Why are we doing this one way and the others we said we're going to do another way?

((Crosstalk))

Kurt Pritz: So this is Kurt. So on one level there should be no distinction and I agree we should consider the other purposes that have been suggested and we agreed to discuss those other purposes later, so they may well, and I hope will be included. If we're looking for a distinction, this is a contractual obligation whereas the other two disclosures to the Chief Technology Officer or the - for the purpose of ARS are not contractual obligations so there is a distinction

that can be drawn. But regardless of that, I think we agreed not to differentiate them but to discuss the other two in the second phase.

David Plumb: Great. Okay, Marika, did you want to jump in, and Berry, help yourselves.

Marika Konings: Yes thanks, David. This is Marika. Just want to note staff will recirculate the responses to the questions as well as the - I think the overview of processing activities memo that ICANN Org shared, so that may help the group then identify what specific questions there are in the relation to the reference, you know, of updating contractual requirements at least I think from the staff perspective that refers specifically to the change in data elements that are, you know, no longer - or what the group has discussed that those are no longer required to be collected.

I'm not sure at least from our perspective if there's anything further that needs to be done. And yes, I note with Marc, you know, that the reference of the data element workbooks may not be necessary as we actually including in the recommendation itself, you know, we can reference it maybe in the description as that's where the work has been undertaken, but of course the list itself represents what is the policy recommendation as such.

Berry Cobb: Just since I heard workbooks mentioned and just to put some clarity around what we're doing next week, what the small team reviewing the workbooks won't be doing is paying much attention to the lawful basis for each processing activity. You'll recall there is a specific question out to the legal committee to determine the 6.1(b) versus 6.1(f) and I don't think that's something that we'll be able to resolve in the small team until we get that advice back. Thank you.

David Plumb: Great. Thanks, Berry. That's in response to Alex's - yes. Hadia, you had your card up for a while, do you want to jump in?

Hadia Elminiawi: Hadia Elminiawi for the record. So first off I assume that for this purpose, Compliance and auditing, ICANN is a controller. But anyway, go to Marc's comment where you said, you know, let's not reference the workbooks. And I agree with you actually to not reference the workbooks. But instead you said, you know, let's mention actually the exact required data. And of course this would be a list of data coming from ICANN and I don't know if this list changes case by case, so they don't have like a standard list of - I don't know.

But I was just - I just wanted to ask you, so what if we, instead of referencing the workbooks, we say to - to basically, you know, pass the registration data required for Compliance and auditing purposes, you know, continue with the - so instead of referencing the exact registration data, which might differ from case to case, you reference the purpose for which the data is being handed over to ICANN.

David Plumb: Okay. Okay. Do you want to respond to that, Marc, and then I'll jump to Alex.

Marc Anderson: This is Marc. I can respond to that. You know, because especially - it's not all that dissimilar from what I was going to say anyway. You know, I raised my hand to respond to what Marika said. You know, when Marika was explaining the language I guess I was nodding my head. I was like, oh yes, that's what we meant and that made a lot of sense. When I read the words up there though, that wasn't my takeaway.

David Plumb: Right.

((Crosstalk))

Marc Anderson: And so what we need here I think is that, you know, the language may be that I'm seeing up there and what I think a, you know, a lawyer that's updating the contracts who hasn't been a part of this working group is going to read and see is not going to result in the outcome that we're trying to get to. And so I

wish I could capture, you know, how it was Marika just phrased it, because, you know, I think, you know, the gist of it was essentially as a result of our policy recommendations we're going to change some of the registration data involved in the processing activities here and that this recommendation is, you know, essentially a common sense recommendation to, you know, update the contract language to account for those changes. Right? Marika's nodding...

David Plumb: Yes.

Marc Anderson: So I'm not, you know, completely crazy here.

David Plumb: And we're talking, Marc, sorry to interrupt, we're talking about data elements, right, that's what we're talking about. The change of the contract would be the data elements required...

((Crosstalk))

Marc Anderson: I think we're talking about the data itself, right, which - what data needs to be collected, transferred, processed, right? And so...

((Crosstalk))

Marc Anderson: ...I guess, you know, based on how this conversation is going I think you know, maybe, you know, first thank you, Marika, for refreshing my memory there but I think it maybe highlights that this, you know, we could maybe make that language a little clearer what our intent is.

David Plumb: Okay. Alex.

Alex Deacon: Yes hi, it's Alex. Just a quick comment on the previous thread on, you know, ensuring we get details from Compliance on exactly what they need. I think we've asked in the past that ICANN - not only for compliance but for

everything as controller create a records of processing activities, this is Article 30 of the GDPR, and it seems to me that if they were to do that for Compliance and anything else then we would have the information needed to, you know, for the work we're doing. Is that right? Okay thanks.

David Plumb: All right, guys, are we at the end of the road on this one? Okay. Yes.

((Crosstalk))

David Plumb: Frankly it feels like we're kind of at the end of a road. I feel like - I'm not quite sure if there are further issues in which we really as a full group are going to be compelled to continue working, you know? I'm kind of feeling like we're a little bit at the end of the road on this sort of all of us contributing because I really sense that like about half the room is probably on email right now, because it's just not a compelling conversation.

So given that, my recommendation is that we let the folks that were going to work on the reasonable access bullet points, let you guys do your work, right. And I would say to folks that aren't going to be part of that conversation on the bullets of reasonable access, if there are things we can work on together with you, I'd love to do it, like, for instance I'm asking maybe if folks here in the Non Commercial, GAC, Ben, others, is there something that we could work on together like Kurt, with you?

I'm thinking maybe lock down the final thing on Principle 13 or - is it Recommendation 13, sorry, because just take advantage that you're here, we can do a quick set of conversations that might lock some stuff down. I don't know if there's something on your plate that you'd be excited about having a conversation maybe amongst us or with Kurt or something so we can just move a couple balls forward. I'm asking. Yes?

((Crosstalk))

David Plumb: Yes. Right. Well I'm assuming that this side, a lot of, you know, at least half of you are going to sit down in this small group and work on the bullets for reasonable access. So I've kind of written a lot of you guys off in terms of right now, but I'm interested for any of you all if there's something you'd want to try to push in advance while we have you here and Kurt can be involved in that, Marika and Berry, Caitlin.

I think the issue of the final language on Principle 13, which is the controller agreements, remember all that conversation we had yesterday or the day before, and we can make sure we've got a nice set of, you know, nice recommendation from the small group or we make a minor tweak to that small group language, that's the kind of thing we could work on. Okay? But you guys tell me to some degree, right, and we are open her. If you'd rather just call it quits and do your email now that's okay too, okay.

So I'll give you guys a second to think about that if you want to talk amongst yourselves, is there anything you want to work on or grab one of these guys over here and work on or grab Kurt or me, let's do it. Otherwise let's split, okay, let's split it up. Alan Woods and Alex...

((Crosstalk))

David Plumb: Yes, Marika. Yes.

Marika Konings: This is Marika. Just want to note to motivate people to work a little bit longer, the management of the hotel has very kindly offered to bring in some bubbly for everyone.

David Plumb: Oh nice.

Marika Konings: So that is being brought now.

David Plumb: Could that be sooner rather than later?

Marika Konings: Hopefully it will motivate people.

David Plumb: Yes, thanks Marika. Yes, sparkling water.

((Crosstalk))

David Plumb: Yes right. Okay, so let's do this, guys, let's call it quits as a full group. I'm going to free up these guys. I'd strongly recommend you guys have a quick chat about fleshing out the bullets, okay, on reasonable access. Why don't the four of you just talk for a moment amongst yourselves, if there's something you want to work on and you want to pull me in or want to pull somebody else from another stakeholder group?

On my list are like Recommendation 13, which is just the final-final language on how we're talking about controller agreements, anything else we want to do around the city/state problem, so those are the kinds of things we could work on. Right, or if you want to look at any data workbooks or things like that. All right, so thanks, everybody, let's call it quits. Hopefully they'll be something to celebrate with soon, yes? Yes. Terri's nodding her head so that's great. Thanks, everybody.

So folks online, we're kind of checking out at this point from the audio online.

((Crosstalk))

END