

**ICANN
Transcription
EPDP Team F2F Meeting
Tuesday, 25 September 2018 at 23:30 UTC**

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<https://community.icann.org/x/rQarBQ>

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Man 1: All right folks let's get going. You guys ready? Oh (Christina)'s back.
Welcome back. We made a lot of decisions while you're gone so everything's taken care of.

Man: I'd like to welcome the CEO of ICANN who made an offer to come in. ICANN published a blog yesterday on next steps it's taking. That covered a couple different areas. Then he made an offer to come in and provide some background and some explanations so without any delay I'll turn that over to you and I (unintelligible).

Goran Marby: I would love to take questions. I actually think I was summoned to come in here so but...

Man: That's what I said but then I was correct.

Goran Marby: Ah, I work for the community. No, just take the opportunity – thank you, first of all can I congratulate you on your work? I understand that you made a lot of progress, the rumors tells me. I don't follow the conversation. I just pick up on things and you're doing a very important job.

So received some questions about the blog and I'm here to ask questions about it, what we're doing. But let me take a step back and some of the

iterations we're doing. So first of all the thing that is important to recognize is that ICANN org, the legal entity ICANN org is we are seeing ourselves as a joint data controller or a co-data controller. I've got (JJ) here. He always corrects me when I get it wrong but some sort of controller in this, just a controller. And we based it on the fact...

Man: (Unintelligible).

Goran Marby: Thank you (JJ). And we based it on the fact that we are the vehicle that actually takes your policies, makes them into obligations for the contracted parties and therefore and we are actually enforcing those as well and that makes us a joint data controller. We said that. We came out in August last year. We came out of the war group and then told that, so that's not an issue. So that's a very important assumption. The other thing in this is that the law as it writes today gives also the contracted parties, especially arose when it comes to being data controllers. And data controllers are defined in the law. And so that means that in essence to have any unified access model whatsoever you either reach an agreement with 2500 contracted parties about what they think is the legal risk they have or you come up with a motions where you diminish the legal responsibilities for the contracted parties.

And we used our word diminish because we're not moving any risk to ICANN org because we already have it because we're a data controller. Be that, that's sort of logic isn't it? So we decided which we went out of a couple of months ago, or sorry a year ago said that one of the things we'd would like to put into your discussion is the legal framework for how can we diminish the contracted parties legal responsibility if there is a possibility to do that?

We are not going to set any policies about this. That's actually up to you guys but that's the - in our interpretation of the law and it seems to be most other people's expiration with the law that's the only way to have any unified access model if the community so decides that we should have one. You see

the difference in this one? If the community decides we should have a policy about unified access model it's your decision. We are trying to figure out the legal avenues if it's actually possible.

So we are not making any difference. So on this basis we are now talking about different alternatives about how to diminish that. And that's what I did in Brussels last week where we actually went out and talked to primarily the European Commission but also – and also met the member states permanent representatives. I don't know if you know anything about EU but they are the ones who actually makes decisions and talked about different varieties of models. We talked them through it.

One of them is related to a lot of public interest in the sense that the member states can according to the law accredited someone to be an accreditation house. If you want to read more about it you can read that DPA's issued guidelines about this back in 2016 I think where they point to the member states responsibility for doing that. So we are asking questions and I can't remember the Articles 40, 41 something like that are actually writing things about this. So we bring in this attention to first the European Commission but they're asking question to the DPAs is this a way of diminishing the contracted parties liabilities going forward? So that's one alternative.

The second alternative is a more technical one and now you have to bear with me. And that is that what would happen if ICANN org legally is the only place you can ask a question through and the only ones that the contracted parties actually can answer a question to would be ICANN org? Would that move the legal responsibility away from the contracted parties to ICANN org which means that the only one it can - that legal advice it sort of turns the contracted parties into some sort of data processor instead of controller so we're asking that question as well.

These are the most, more sane versions. We have a third one which is the law says that it's, the law says that it's public interest can only be defined by

law. So now comes the question what is the law in the European context because the European has different avenues of actually deciding different things. So for instance there is the cyber security paper which is adopted by the council. That paper actually it says that there should be an open Whois, it's important.

What is the legal status of that document? Can that be seen as some sort of law according to the DPA because they have now stated that there's a public interest for Whois. Remember there are two countries also in Europe that - there are two - you're shaking your head. Oh why are you disturbed?

Woman 1: Basically sorry, there is a legitimate interest for an open Whois.

Goran Marby: Public.

Woman 1: Public Whois, okay yes I'm - sorry I would disagree with that under GDPR. But anyway as I said please continue.

Goran Marby: I mean here is the thing, so the European Commission has through documents stated the interest of Whois. The question is and I said it earlier on it's up to the community to decide if we should have the policies set by the community when I'm trying to investigate the possibilities for having the discussion in the first place. What the law says today is that the data controllers by themselves are responsible and I think we all agree on that.

So the individual contracted parties has this responsibility and if you want to do a unified access model we have to come up a way of doing something differently. Then it's up to you if you want to do it or not. But the law is as I said to some extent not fine-tuned enough to answer straightforward those questions so that's why we're asking them.

So right now we have three different alternatives that we are now asking. The, first of all the European Commission and then the DPAs if it's even

legally possible because if it's not legally possible on any other avenues we so far come up there will be a little chance of any - having a discussion by the unified access model in the first place which I think is good for the community to know in its policy work.

But we are doing this as we said before as an investigation about the legal aspects of a law that is not fully implemented in the sense that the courts haven't said anything. So I open the floor for any questions. And who moderates because I'm lousy at that. We have Stephanie Perrin.

Stephanie Perrin: Yes Stephanie Perrin for the record. And thank you for this explanation. I must admit I'm a little mystified as to what kind of legal entity you - the European authorities could name you as absent a law. And so I did read the blog and I thought okay what exactly is this? And then the second part of my question is, is there any interest if you do manage to get recognition as the public authority that looks after the Whois in establishing a case under 61F that you don't have to balance the rights of the data subject?

Goran Marby: Are we - I mean first of all the legal entity in this is ICANN org, the incorporation here in the US. That's the only legal entity that exists within ICANN. So when I say that ICANN org I specifically say ICANN org. But we are bound by the principles and policies set by the community through its bylaws. We cannot make some of those decisions by themselves. So coming back to...

Stephanie Perrin: I don't think I was being clear.

Goran Marby: Okay.

Stephanie Perrin: The request is that the European authorities would designate ICANN org, the entity that we all know and love as being a - some kind of recognized public body the coordinates the Internet. Have I got that right?

Goran Marby: According to the DPAs which issued guidelines about this I think it was December 2016 it's the member states who make that decision, not the authorities by themselves, the member states have to according to the guidelines set up. You can find that on they Article 29 now the board's paper.

Stephanie Perrin: Yes, yes I'm familiar about the paper but I don't think of that accreditation as giving you the status that you're looking for but I may be just totally misinterpreting it. Thanks.

Goran Marby: I mean we are trying to - as I said we don't think that, you know, we are giving them different alternatives to come up with different solutions because I think you agree with me that if you can't figure out a way of diminishing, you know, diminishing the contracted parties responsibilities it's very hard to do a unified access model because the legal responsibility will be with the contracted parties. And according to the law they will always have a say. That's the way it is. We can't push that and no one else can push it. So we are looking into the law and trying to coming up with different alternatives. You might be very right. They might say that no that's not going to fly. But then we know that in no is also a very good thing to get because then you actually have an increased legal certainty.

Stephanie Perrin: If I may have a follow-up, the important point here that you haven't really discussed is the ability to locate in one jurisdiction as well which the contracted parties can't do that. They cannot escape their local jurisdictions to the best of my understanding of how it would work. Even with the concept of the consolidation of the controllers or the relevant data protection authorities within Europe you're still having to deal with local law.

Goran Marby: You're very right. This doesn't sound this doesn't solve many of the other questions that are still on the table. But if it solves that then you can have the discussion about the other ones. But I, you know, I would fairly say that, you know, I've been in all my communication about a potential unified access model I've said all along this is - I mean what we've done so far the temp

spec is the easy one because we took data and we closed the access to some of that data down. That was the easy part. to get people to act get access to it on a general level that's the hard part.

So look at what this does building a foundation through answering the questions you have. And many of those we will relate to the work you're doing here in some of the policy work. And yes we will have with sort of growing up with more GDPR related legislations around the world we will have some problems addressing that as a community, that's true. But at least we will then know the foundation for having a discussion.

Man 1: (Thomas) and (Mark) do you have something on all fours with this because there's others in the queue in front of you? So, all right (Benedict)?

(Benedict): Hey (Benedict) (unintelligible). You talked sane ideas, so here's an outlier. Have you thought of the possibility of ICANN contracting directly with the registrants to solve some of these problems? Thanks.

Goran Marby: That thought has not crossed my mind no. And it actually should cross my mind because that's something that you should decide. I mean remember that despite what many people sometimes remember is that what I implement are the policies set by the community. And if the community wants to change the fundamental things how we do things I'm not going to protest. But it's not in my - It's actually not in my decision-making process to make that distinction.

Man 1: (Milton) go ahead.

((Crosstalk))

Goran Marby: Oh, I also think that some contracted parties might have some sort of opinion about that.

Man 1: Yes. (Milton)?

(Milton): Yes thank you for talking to us about this very interesting and kind of a puzzling solution that you're proposing I think. So I have two questions. One of them is pretty simple. It's why do we need a unified access model? But before you answer that assuming that we want to go there, the more interesting questions are about this legal designation of ICANN as a what do you call it, the authoritative coordinating authority of the Whois system. So what - and maybe (John) can help us with this, what are the full implementations of that beyond the immediate problem of Whois like this, you know, how does that mesh with ICANN status as a US-based corporation? What if the US government passes this law that's trying to tell you how to handle Whois? Can we get into jurisdictional warfare with this?

I'm just fascinated by that. It's not like I'm criticizing. I'm just what other implications does it have in terms of the overall structure of ICANN as a private sector based global governance authority?

Goran Marby: Ninety percent of the answers to these questions you should ask yourself why do you think we should have a unified access model? I haven't said that I actually think - I'm trying to - with - or said I'm trying to figure out if we can actually have one if the community then decides. So not proposing one single solution. I'm trying to figure out different alternatives to make that happen if it's legally possible. So let's leave that, all that aside. That's what trying to do. I have so many times said that this actually belongs to the community and maybe we can just move on from that discussion for a second.

So and the other thing when it comes to you - I think you're right in this. The - what we're seeing now -- and I talked about this many, many times -- is that we will see more and more types of legislation that will direct impact on our abilities to make policies. You might like some of them and you might dislike some of them. And I think that we need to work as a community together and the org to actually figure out ways to handle that because I think that

everybody will agree that just we were late on GDPR. We were - we should have been there a long time ago and we should have done things thought about things. We should may never had a policy for Whois.

Though we talked about privacy and transparency because we have thousands of databases in this ecosystem. IANA is full with them. We have people's names everywhere and some of them you like and some of them you might not like. So with this jurisdictional questions that we have is just going to happen more and more.

I don't have the answer to that. We have - but I will engage with the community how to work with this going forward because it's going to be very interesting for us. And maybe you think that some of those things are good and maybe things are bad, but we should at least have the opportunity to talk about them in the community.

Man 1: Thanks Goran. I've taken these cards in the order they were put up so (Mark).

(Mark): (Mark) for the record. I have three questions but they're easy questions. I think you were about to say that there were two member states who were interested in investing you with this public interest. Did I hear that right?

Goran Marby: There are two member states in Europe who already have a legislation that is some...

(Mark): Sweden and somebody else or?

Goran Marby: No Finland and Denmark.

(Mark): Finland and Denmark.

Goran Marby: ...had legislation there but local CC has to show all the data.

(Mark): Yes I thought Sweden also had such a thing. No?

Goran Marby: We would never do something like that.

(Mark): Okay so...

Goran Marby: Sorry did I actually say that out loud?

(Mark): ...Finland and Denmark thank you. Second question, you mention an access model where all queries go through ICANN. ICANN pulls the data through RDAP from the contracted parties in real-time. I've been hearing a lot about this access model. I'm wondering do you have a name for it? I've been calling it the hub and spoke model. I'd like to refer to it with a consistent name.

Goran Marby: According to my team that internal project name is a secret but it's got something to do with food.

(Mark): Okay well that's unfortunate of course. And then second are you considering or are you trying to generate a legal basis for the access model where not only do the queries go to ICANN but ICANN is actually the primary data holder?

Goran Marby: Not the data holder. Remember that, and let's take a step back. We are just trying to figure out legal opportunities for a potential unified access model. I don't think I have to repeat that. It's going to be up to the community to make the decisions but we should have one and that's important.

Goran Marby: So what the reason why we haven't looked into that is because we already realize that that will probably be a slightly big change on the business model that exists today with the contracting parties because they actually use...

(Mark): Quite a big change, yes.

Goran Marby: ...the data for other purposes as well. And we don't want to be put in a situation of actually dwelling into that as well. So, but I know there has been discussions, there are proposals in the community about that and we've said we're very positive of having, you know, if someone comes with an argument because what we're actually doing is what we asked you to do. We asked you to come up with ideas. So we came up with two or three ideas to challenge that. We are not saying that this is what we think is the best idea in the world but these are the ideas we're thinking about that we can actually have the question, you know, ask sensible questions to the DPAs and get some answers. Maybe the answer will be it doesn't work and then you will know. And no is as good as a yes when it comes to (unintelligible) certainty.

Man 1: Go ahead (Thomas).

(Thomas): Hi Goran, thanks for stopping by. I think the blog post can be construed in two different ways that, you know, being acknowledged as the operator of the Whois can - mean that you're asking to be vested with a public function so that you can process according to 61E. But it can also mean that you're asking to be regulated such as some of the ccs are. And did you put some thought into what it should be?

Goran Marby: The law says that for one of the alternatives there, there is - has to be a legal action which means that the member states has to make a decision, but it doesn't define in that I mean there is a question about what is the legal action in the concept of the, concept of Europe that we can debate that we know that or not is an old regulator. I know they're all binding things that is not written down in law. What is the for instance the legal basis for a guidance from the DPA's board, is binding to some extent for the DPAs because that they all agreed upon it so it will actually have an effect going into courts.

So we just asking the question, we also asked them the question about if I mean, it's really kind of funny in a way which I will now turn to our dear

friends in GAC and say that the European countries have come together through the GAC and said that they think Whois is important which happens to be the same countries who's actually made a law with their own authority saying that you should actually do something different. So we're actually reversing the question. And I don't know if you know that but I actually asked a former question back to the GAC a couple of weeks ago and I asked the GAC could you let us know if you have any ideas if you now think that this is important? I'm just doing this with all the respect. If you now think that this is important why don't the member states tell because they are the legislatures?

The EU is not a government, EU is not a country. It's a treaty between 28 and plus four or five other countries. And they can decide a lot of things by themselves.

Man: I had two questions actually thanks for answering that first one. I think an option that you didn't mention so far would be a code of conduct according to Article 40.

((Crosstalk))

Goran Marby: That's in there. It's actually that's one of the things that we are talking about as well.

Man: Because I guess that has the beauty that you can try to push the boundaries of what's permissible a little bit without begging for being regulated otherwise (unintelligible).

Goran Marby: Regulation for me is an act by law. It is actually, I mean, regulation is nothing else than an act of law because regulation has to be a legislative thing, both because you can't just regulate. That's why we for instance it's not a regulator because we can't make laws and that's a very, very important definition.

So when you say regulated yes there could be outcomes out of this if someone is interested. And I'm not speculating now that someone takes a legal action. That is a regulation. I mean let's take the US proposal the one here. That is actually regulation. A law means that you regulate something. I don't know if they're going to do something about that. I don't know what's going to happen in the US. I don't even speculate about that but when we say that we will see much more legislative proposals will have an effect on our ability to make policies, that is the same thing that more of this industry and this ecosystem will be regulated going forward and that I actually truly believe.

Man 1: Thanks very much. (Margie)?

(Margie): Thank you Goran. I think this is really interesting. One of the questions I have is in your option three do you need one members country to designate ICANN as the authority if you will or is it a collective more than one? Is it a law? Is it a letter? What kind of a response are you thinking about?

Goran Marby: The first alternatives is code of conduct and the accreditation if you combine those two is actually that is that all the member states has to agree if that's going to happen. That's why, one of the reasons why we engaged GAC early on in the discussion was because in the end if there are member states it has to make certain decisions. When it comes to the other one, the sort of last one, the definition of what a legislative act is that's something that we have to, you know, someone has to help us interpret that question.

That's yes, something we started recently resourcing thank you. I have fun by the way. You're so kind to me. Any tough questions now?

Man 1: Well here you go, (Diane)?

(Diane): Thank you for coming. I think that based upon what you said it seems that to be able to – it's going to be a very complicated issue to get multijurisdictional

approval and recognition as a regulatory authority and a definition that's unified on what public interest is. So I really would like to circle back to a very fundamental principle which is what (Benedict) raised which is you having a direct relationship ICANN and the data subject because that takes us under 6B which provides a very traditional business framework to be able to set up data impact assessment to be setting up proper policies of data subject rights policies, privacy policies, data retention policies and everything that's needed as every other business does to be able to be labeled as a controller and to then have the contracted parties have a limited and proportionate sense of liability and that it greatly reduces their liability and makes the scales even.

And I think that's really very much as you said what is really necessary in the situation. And so and then they would also be the capability to have the appropriate model clauses in place for the transfer of data outside of the United States or outside of Europe to the United States. What do you think of the prospects of that model happening?

Goran Marby: Depending on which mood I'm in, I can kill any model. I mean it's very simple. I mean just look at the law, we can kill off any idea, and it's always easiest to say oh that was stupid. It's not going to fly.

The potential thing is that the law as itself never recognized something like ICANN because we have an asymmetric way of doing things. And when the law is really about that, you collect data for a purpose and you're allowed to use that data for a purpose as long as there's an agreement to do that. It's a completely sort of symmetric.

Here we're talking about someone you have decided which data to be collected through policies. We go and tell the contracted parties according to the policies that they have to collect it. ICANN org as I think you discussed has ICANN org as the legal entity has very little use of that data. The ones who's using it is not even in this room because it's a third-party access. So there's asymmetric way of looking at data. And I think that when they made

the law the - that was not taken into account. And that is what's create some of the frictions.

But we have a model how we do things in ICANN, and if you would like to change it because that's a fundamental change not only taking into account that contracted parties are using the same set of data for other purposes as well which complicates things as well. So it's probably a bigger policy change than anything else. But, you know, if you think if you get it, if you decided that this was the way you would like to do things and agree upon that I'm not – we can legally argue about it and the DPAs in the end will say what they think if this actually takes away the problem. But, you know, I will not stand away from a community making policies like that but it's really a question for you rather than for me.

(Diane): Just in reaction to that it's not a huge change of the policy to shift on who's going to hold the data. And it seems that under the accreditation model the hub and spoke or I don't know what it's going to be called, that's going to - that's what's going to happen anyway because if we're going to set up an accreditation body and in fact ICANN is going to be at the center of that body controlling that data as the controller that that's going to fundamentally just shift the shift but keep within the same framework of what ICANN does now but will be the data controller officially.

Goran Marby: But in the current discussions we have had so far we don't move the data. We open a window for access to the data so the data is still at the contracted parties because they use that data for other reasons as well. And therefore and that's not under – not under Whois. So we also have to think about from perspective which - because there are functions of this data which have got nothing to do with Whois. So that means that if you want to have that data they have to go to us and ask for data which is outside of Whois. So that could complicate things as well. But as I'm saying I've been - I mean couple, two months ago or something someone came up to me and said that they're working on a proposal for a centralized database and I said ship it in and I will

take those questions raised by that and I will take it to the DPAs. So as long as you sort of give - and I've been asking for that for a very long time if you're interested we as we did when we did the Calzona -- yes I'm not allowed to give project names anymore -- we always taken your questions on board and sent them to the DPAs. It's legally possible. We've been very, very neutral in our request to the DPAs. We never took side about it. We always popped the question. So if you want to provide us with information about that and your thoughts about it we will push that into the DPAs as well.

Man 1: Thanks very much Farzeneh and then Alan. And then I'm going to try to cut off the queue here so...

Goran Marby: Why, I'm having so much fun?

Man 1: I know but we have to get to work.

Farzeneh Badii: Farzeneh speaking. Goran so this has been happening to us for the past I think six or eight months that we are discussing these issues in GNSO and how to tackle them. And then ICANN org has a tendency to come up with solutions that answers the ICANN community requested it. And then I see in your blog that you also mentioned the community request and then I go to the footnote and I don't see. I just have to be very clear that please do not base your arguments on what ICANN community request because that is you have to gauge consensus first and then say that actually there was a request from the community because a lot of us in this community do not think that access comes first. And we have been working on EPDP and it's been like for hours per week and for the past eight weeks and now three days and then we are going to work longer and longer. And ICANN org comes up with these creative solutions for - and we're not asking for solutions. Please let us do our work.

And then also one more thing so when we're talking about like being like the public Whois coordinator are you suggesting to change the nature of ICANN

because in the bylaws it says that it's not a government authority and it's not like a government regulator So are you suggesting that? And yes that was my message, let us do our work.

Goran Marby: Well let's break this down. So let's take the first one and you're blunt with me and I take the opportunity to be blunt back. First of all I'm actually doing what I said I'm going to do for the last six months. I have gone out and said what we're going to do now is investigate the possibility for a unified access model. And the most - and but I always said it's up to the community to make that decision. So and I've been up right with that all the time.

I asked for your - what do you mean? Why you shaking your head?

Man 2: This doesn't mesh with what I've witnessed.

((Crosstalk))

Goran Marby: What have you witnessed but doesn't match up? Haven't I gone out to the community and said...

Man 2: I don't want to jump out of queue. I can go to the end of the queue but I feel like there's been a massive information symmetry. There are parallel processes running.

((Crosstalk))

Man 2: We are doing something and ICANN org is up to something else. And to say that there is community that you are following the desires of the community I think is – you might be listening to lobbyists, you might be listening to certain parts of the community but you're certainly not listening to (unintelligible).

Goran Marby: If you – I have said that I'm going to go out and ask guidance from the DPAs about the potential of a unified access model. I invited the community to come in with comments about doing that.

Man 2: We have no idea as to what conversations you have with the DPAs. We received brief blog posts occasionally but do we know what questions you're going in there with? Of course not.

Goran Marby: Actually...

Man 2: We don't even know every meeting that you have.

Goran Marby: ... Actually we do publish them all. We do publish them all. You can, no, you can - we publish any questions we do. So you may not trust me but please that's okay with me. But please don't disregard all the hard work we're trying to do to make sure that you get more facts on the table. We had the same conversation last year when you also told me it was hard for you to - I wouldn't get anything out of the DPAs as a guidance. We did receive a lot of guidance that actually made a temp spec even possible because they actually give us advice written about what to do. I don't, you know, you don't have to trust me, but believe me we're actually trying to do something that enhances the work.

And I think that it's fair to have a discussion about this as well but we have actually do publish everything we've done. And to the extent we – I actually called a pure part of the community during all the work and said please provide me with the information and questions you would ask through the DPAs.

I have done that. So I've been trying to be as open and neutral in this conversation as possible and I'm here asking any questions you can. You don't have to agree with me what I do but to be honest if we don't know the

legal surroundings of any decisions you do it will be much harder for us to make any decisions going forward.

(Colin Cree): I just kind of wanted to follow-up. I'm also from the and CSG. I'm (Colin Cree). But I don't - I haven't been in this community very long. I don't have any kind of like, you know, beef with the executives. But what I find frustrating is as a person who's dedicating a lot of time to try to work through these - like to try to find solutions is I do see I feel like I'm getting mixed messages. Even if we just refer to the conversation that we're having now I think it's perfectly respectable or understandable if ICANN organization wants to meet up with governments and explore different, you know, have different ideas. And I mean that's what I would expect, that's what I would do if I was running a business, you know, that was put in this position of risk.

However I do find it a bit problematic sometimes how we keep on referring back to the line of like, you know, were doing X, Y, and Z but at the end of the day it's up to the community like if that kind of refrain that I find problematic. Is not necessarily an element of trust or anything like that is just kind of like well who is steering the ship here?

And then like the element of uncertainty that you guys are dealing with we're also dealing with it too. And in trying to we've got a lot of questions for ICANN about how it, you know, what kind of information it needs like operational stuff like getting down into granular details. And it's really great to have, you know, to have (Barry) and the other - and the team members here to try to help us work through this there. But I think this information asymmetry. And then kind of coming back to the line of like oh, but we don't have any power here, like we are puppets and you're the master. Like I think that that's maybe what people, what I at least am finding problematic.

Goran Marby: I never said that but I said, I mean first of all I don't make the decisions and it's no one - you might think that I do but I've never done and we can't do that because you make the policies. But it's fairly hard, I me to be honest how are

you going to make whatever decisions you want to make about the policies is going to - has to be legal. It has to be because if it doesn't the board can't even accept it because if it's against the law what you come up with that's something we cannot implement. And the reason why because the contracted parties who are the data controllers will never accept it.

So it's the balance between the policies you set and the legal responsibilities for the contracted parties in ICANN org. That's the benchmark. So what we've been doing for the last 14 months is to find out as much as we can how to interpret the law and we've actually been quite successful if I may say so because we got a lot of legal advice which you may like or not like from the DPAs. And the way we've done that is that we open up, we said we are going to talk to the DPAs. These of the questions were asking them these are the answers we get from them.

The board came up with a temps spec because we were also data controller. Well that means that the board actually has to make a decision like that because otherwise if we can't - and if we would break the law we would have a fairly big problem. We're a legal entity. So we are continuing on the journey to find that out the legal possibilities for making decisions going forward.

I mean here because I got invited to come here and talk about some of the things we're doing and we've been extremely transparent. You may not think that we are and you can always suspect that we're not but we're actually sharing all the information that we - in sharing all the information all the questions and all the answers get back.

Tell you a funny story, so we were in Brussels last year and you can find all these results from Web where (JJ) had a conversation with the DPAs and the DPA said why are you publishing all of this? This can actually hurt you in a legal, in a court case. And (JJ), you know, said that's because we're ICANN. We aren't publishing things that if we were ever taken to court we can actually have an effect on our abilities to run a court case.

We're not a business but I think that, you know, well we've had this conversation several times, what my understanding is that the community would like to have more legal certainty because that will actually make the discussion smaller. There are things that with or without legal knowledge will, you know, we can't do the policies by ourselves anymore. The law which is un-interpreted is going to set the basis for this. We're trying to figure that out. We are open about what we're doing with all the proposals we're given. And we always share that with the community. We always share tell them what to – and yes we think to try to figure out ways of actually doing something.

But I've said all along if we're going to have a unified access model it's a policy decision and that's not my decision. That's yours. But if you want one wouldn't it be nice actually to know the legal surroundings with the potential of having one otherwise this will be just a lot of guesswork.

Man 1: Thanks.

Goran Marby: Welcome to the community by the way.

Man 1: Yes.

Goran Marby: Have fun.

Man 1: Actually (Colin), great. Alan, move along.

Alan Greenberg: Thank you for going back to the queue. This is the first time I have heard a discussion of the unified access model when linking it to liability of contracted parties. It's been obvious to some of us and it's quite clear that there are a lot of contracted parties who do not - will not – are willing to implement a unified access model which implies some level of automatic decisions because of liability but I haven't heard that being discussed openly despite the continual reference to the unified access model. So thank you. That's number one.

Number two, in counter to the previous discussions I would like to thank you for working in parallel processes. I believe the reason that we are so far behind in this is when we finally woke up to the fact that GDPR is an issue we did not start working in parallel processes and addressing all the multiple questions in parallel and looking for solutions. And some of the solutions wouldn't work so I think we're finally on the right direction and I thank you.

And lastly on a lighter vein instead of spoke and hubs in light of past CEOs I think we should call it the starfish model.

Goran Marby: Even I know that one. First of all I mean, you know, I'm actually going to humbly disagree with you. I don't see that we're working in a parallel process. I think that we're working on an input process which is different because it's not like we're going to align those. We are giving input so I'm yes (unintelligible)

((Crosstalk))

Alan Greenberg: We're investigating things in parallel instead of serially. That's important.

Goran Marby: And the thing is that you know that I just like to disagree with you.

Alan Greenberg: (Lindsey).

(Lindsey): I'm sorry. Okay. I still have to ask about the unified access model then. Did you actually ask the community if we wanted that? Because I'm pretty sure we don't certainly from a contracted party perspective. We didn't want that.

The other thing - I know you talked about working on our behalf and everything else for the community. But at not point in going to Brussels or talking to the DPAs did you actually include the contracted parties or indeed anyone else to go with you to be part of that rather than having to listen to

you talking about it. And I think that was a really important thing. If you want to be inclusive, then you have to act in that way.

Goran Marby: One of the fun things when I started the process of - when we actually started a process of what became the (carsona) model was many contracted parties had said to me that we should only talk to the contracted parties; no one else because no one else - this was a pure compliance issue and therefore we shouldn't talk about it.

And I took - I wouldn't say (eat) but I actually went around and said, "No, we can't accept that." Everybody has to be on the table when we talk about this; not only the contracted parties because the contracted parties are important legally. But the ICANN model is to have a more inclusive one.

That's why I reached out to many parts of the community to make sure that we got comments from them as well. So to answer you, no, we will never only look at one part of the community when it comes to this. We will always look into what the community comes up with policy work.

On the first one, we have gone out several times and talked about also when we did the temp spec about the importance of actually figuring out the unified access model if there's potential.

Last meeting I think I gave - I think I repeated the same message several times and talked about we are going to investigate the potential for unified access model if the community (so decided).

I think there's another - I don't think there's a, you know, personally I don't think that it's a sort of a digital one, the community (doesn't) like or the community wants to. I think it is a discussion for the community to have.

And I'm not sure it's come to that. It's your decision if you want to have one. But if you have one, it could be so, which I've said openly since we were in

Puerto Rico. The chances of having a unified access model is fairly low.
Thanks.

Man: So we have three more questions. (Stephanie), you've already had a go so can you make it a shortcut?

Stephanie Perrin: I'll try. Stephanie Perrin for the record. The GDPR is backed by the charter. And I'm really mystified as to how we can accommodate the constitutional rights of the individuals who are registrants under a regime where ICANN becomes responsible and accountable for access and is the only - the single access point I gather.

Yes I get that the data still resides in the individual contracted parties. But I don't think the constitutional rights are going to be relevant there if the actual law enforcement agents and cyber crime agents and IP investigators are coming to a single access point in the State of California.

So I wonder if you could explain how that would work. And I had two more questions but - in reference to your queue I'll drop them. This is the biggie.

Goran Marby: It's a biggie but also it's a sort of interesting - one of the things I don't understand with the law to be honest is that I find private information everywhere.

And it seems like the legislators have actually made differences between the same private information - actually the same information in different databases.

So take the famous one, the EU Trademark database, which contains - which is a (ledger), it contains more or less the same information. And the reason why it still exists is because the EU in the law (exempts) its own institutions and it's because it's in one of the institutions and therefore they can basically do whatever they want.

The other one are telephone directories, which are deemed to be very important. Same, you know, sort of information as well. But so my understanding is there is a variety and this is where - and this is not me but someone else (make up).

Someone has to make those sort of assumptions and balances in this. Why this kind of data in this format and this circumstances are deemed to be a certain way. So that's where you're going.

So it seems like the same data could be - there are different alternatives to looking at the same data. And that makes it a little bit problematic for us to give a straightforward answer.

And you're much better than I am on this one. So you probably have a straightforward answer to it. But I've, you know, the ambiguity in several of those things you can ask the question because telephone numbers, names, addresses and stuff you can actually find in several databases within your (unintelligible) of the GDPR on the net.

Another one is ledgers for companies, which is often countries that have ledgers are because you have a company, you have to put in you're there, you have to put in the board and all of that information all the way down to addresses, which is, (you know), (slightly) protected.

But the same numbers, the same people. So I think that it's, you know, I don't know the answer to it. And that question still remains in any unified - potential unified access model (as it is).

Stephanie Perrin: With respect, basically what you're saying is there's data everywhere and that it's been released under different circumstances. What I'm talking about is my constitutional right to have due process in the acquisition of data that might lead to my arrest or surveillance.

And that's the problem with ICANN being one unified source. Because I don't have any rights in the State of California as a Canadian nor does a European from a charter perspective.

Goran Marby: All right. First of all, even if we are an American entity, we will still be under GDPR because, yes, just to make your - just make your point even better. The different countries has in Europe have different legislation about this.

So we met with - we met with some representatives of law enforcement and one of the fun things with this is that one country - if you want to go in and ask for, you know, let's call Whois a closed database.

If you want to have that information out of there, you actually - and you don't have a court order then you have to notify the ones directly. That's sort of in the law. The country next to them didn't have that. The police force didn't need court order. You can just walk in.

So to your point, we already have that problem. And it's there - I mean it's actually quite complicated. I don't have the solution to all of this.

Man: (Ashley).

(Ashley): Thank you. Yes. (Ashley) representing the GAC. I too want to thank you and the GAC wants to thank you because as everyone I'm sure is aware, the GAC has had two sets of consensus advice. One is issue started back in Puerto Rico where we really saw the need to have a focus on access, which really hasn't happened as of yet.

And being GAC consensus advice is no real easy feat. And the fact that we have European governments as well it's hard this GAC consensus advice, which included asking ICANN to proceed immediately with a conversation on unified access model.

So thank you for that. And but to realize that you're also not proposing a solution. You are looking at the options that are available so that when we do get to a point of having a conversation on universal access model, we're prepared to have that educated discussion.

So thank you for that. We look forward to seeing what kind of response you get back and are happy to provide any assistance that we can moving forward. Thanks.

Goran Marby: Thank you. (To the point), I also said that in Puerto Rico. And with all the respect of the DPAs in Europe, I'm not even sure that we're going to get a lot of answers from them because they are actually tied up with some other things that they might think is more important Whois as well.

And that creates another problem, which how do you deal with that situation when you have continuous legal uncertainty. A potential unified access model is really not the easiest thing to do because the law doesn't really - is not really written to the extent to do one.

And to diminish the contracted parties' legal responsibility is not the easiest thing to do either.

Man: A couple more and we're out of here. Alex.

Alex Deacon: Thanks. This is Alex Deacon from the IPC. I just - (Alan G). said a lot of what I wanted to say but I thought it was worth repeating it here. You know, we believe the work that you're doing is important in understanding the legal landscape in parallel to the work we're doing here in the EPDP. And we encourage you to continue to do that.

I'll also note that we're doing important work in parallel with regard to the technology, i.e., the RDAP profile work that's happening. And if we, you

know, given the importance of Whois and all of the topics that we're discussing, if we were to serialize all of this information we would be here for ten years.

So it's important that, you know, the EPDP focuses on what we have to do per our charter. I encourage Goran and ICANN to continue to do what you're doing to give us input with regard to the legal nature of what may be coming. And of course I encourage like continued discussions on the technology and the RDAP and the like, so.

Goran Marby: Can I go back to you for a second? If I were a business owner and someone said that I can actually diminish a risk for you and take (that work) from you, I think that there are contracted parties who would be interested to know that we can actually - if it's potential (avenue). Doesn't matter about anything else.

But if someone (who will say) that you have this huge liability to that, you have this huge risk that you have to spend resources and time on making decisions because the policies are so that you have to actually give that data out. So you actually have to make those decisions. And you have to spend time on those decisions.

If someone can actually fix that for you, I, you know, if I were a business owner I would think that is great (idea) because then I will actually diminish my legal risk. And then I don't think - I can't understand why that would be a problem to be honest. (Unintelligible) so much more fun.

Woman: Oh, thank you. Yes I would agree. However, if that business thought you were acting illegally or against the law, I don't see that that reduces the risk. Plus the fact would you also be willing to offer an indemnity?

For example, if you - say for example you went, okay, ICANN will respond to all queries. ICANN will release the data. End of the day as a processor in

particular for Whois data or when registering a domain, would you be prepared to give us an indemnity if you released that data and then we receive it as well?

Goran Marby: Well the whole point of this exercise is actually if - to answer the question can we diminish the legal responsibilities contracted parties and if we are able to do that, you already have the question. Then your legal responsibility is diminished and you don't have that because you're taking one process in faith.

There are writings about in the law and also some of the things that are written around it without - so if you have - if you're a cloud, if you are - if you - - what's the English word for this? If you contain the data as a cloud operator, then your most important task is to make sure that the data is secure; that is no one can get access to it outside (perimeter) there is.

So that's the question we're asking. You might say that I know the answer. We don't know the answer. We want to make sure that if we can get an answer you can be totally right, then we won't - then there has to be something else; limits to community's ability to make unified access model.

But I think you agree with me by asking the question to get an answer and know could be fairly good as well.

Man: So let's wrap this up. So (Heidi), do you want to take us home?

(Heidi): So I have a quick note about the uniform access model. I would like to say that many parts of the community actually asked for the unified access model. And I would refer here to the Middle East and adjoining countries statement on Whois - with respect to Whois where we did ask for - where we did ask for a uniform access model.

I refer also to the ICANN (unintelligible) statement on Whois - with respect to Whois where we also asked for a uniform access model. And the reason that the community is asking for a uniform access model is that we want registrants to have the same protection rights across the globe. And that's one thing.

And the other if actually we don't go down this path, we are opening the door for the fragmentation of the Internet. Thank you.

Man: I didn't really hear a question there but if you want to make some closing comments Goran that'd be great.

Man: Yes. I just had a quick comment. I just wanted to address the misconception that if all queries went through ICANN regardless whether it's the hub and spoke model, which I will keep calling because you won't tell me the real name or the trusted data clearinghouse model; either way the server could reside anywhere and the data could reside anywhere.

And in fact you could have multiple copies of it or you could have it split and you could have different copies have different access rights. All of these things are technically feasible. So we don't have to - that one complication we don't have to worry about.

Goran Marby: So thank you all. And I sort of know that not everybody will agree with what I do and say. But we are - first of all, we are extremely respectful of the work you're doing here in the expedited PDP. And I can't pronounce the acronym. Because I know that what you're doing now is what the GDPR has set a focus on. And that is actually to talk about privacy in the first place.

So I think that we as ICANN should reflect on the fact that we're actually talking about something that is important for many people. It's not the easiest thing to discuss. There is a lot of complication in this one.

Some people might think it's easy but it's not that easy because there are many (balances) to take to account. And my job here is to provide you with as much knowledge around this as possible.

You may not like what I'm doing or not, you know, (think of it). But I don't make the decisions at the end of that. Just bear with me that we've been carrying this torch for the last - was it August last year when we actually started out the first time? We (end) those discussions.

And I have to say that what we've done over the last year or so is actually quite dramatic. Thirteen years - months ago we didn't have a clue how actually to (buy) with this law in the first place.

And we were able to come together and with a lot of input, a lot of discussion come up with something that is now actually in effect, which is now the temp spec.

I think that the discussion about privacy versus transparency is so important and I'm very happy that you have it here. It's your discussion. It's not my discussion. You will never hear me have a view on this as an ICANN org perspective and neither would my team will do either.

We are trying to make it possible for you to have this conversation, believe it or not. So with that I wish you the best of luck and I hope that I haven't destroyed anything else.

And I'm looking forward to see if we got any results from the DPAs when it comes to those discussions that you will actually know it at the same time we know it because we (also) that when they actually send things to us they actually publish it at the same time, which means that you actually get the same information I do at the same time. Thank you.

Man: Goran, thanks very much for taking your time and visiting with us and thanks to the rest of you guys too.

Goran Marby: It was fun.

Man: (So long). Well, how about we do this for a second, just (stand by) for a second. Let's just literally stand up. Let's just stand up. Let's just literally stand up. We're not doing anything. We're not doing like jumping jacks or anything. Let's just like literally stand up for a second.

Five thirty, right. Five thirty. Right. Yes. So okay. But the only problem with that is tomorrow is a nightmare, right. Tomorrow is we got so much stuff. If we like walk away right now, it means you're just putting it into tomorrow. Okay. Yes. Get drunk. Alcohol may help. It is true. Alcohol may help.

Folks, so listen up. Tomorrow is a difficult day just because we have some biggies to tackle. Think about, you know, how much time we're (unintelligible).

We've got some stuff in the parking lot that we want to think how we're going to deal with it face-to-face or over the phone. So we have all that. So our question to you right now is, you know, (Milton)'s plan of let's call it a day and head out. Okay.

Or let's tackle something for a half hour, cross it off the plate, be able to feel like we're going to come in tomorrow and deal with B and others that are...

(Kurt): So this is - so this is (Kurt). Yes. Hang on. So Stephanie wants the floor and I want to give her the floor but I'm urging you to say something that helps bring us back together and start back to work. So I want to hear your concern but I also want to segue out of where we are now and back to where we were an hour ago.

Stephanie Perrin: Stephanie Perrin for the record. I think what we have just experienced has severely affected our trust and that the odds on us working effectively together given that there are around the table some people who support fully the proposal that our CEO has just explained to us.

And there are some of us who feel that it is an utter travesty of, you know, showing - well anyway, you get my drift. So I really think it's intelligent of us to just give up, quit for the day and hopefully bring ourselves back to the table tomorrow with a positive attitude.

(Ashley): But I'm like all for it, you know, leaving this room and getting drinks and stuff. But I do think that, you know, they say you shouldn't go to sleep on an argument. So like...

Stephanie Perrin: Yes. But we have an argument - we haven't argued yet. Just give me five or ten minutes and we will.

(Kurt): I withdraw my suggestion to quite now. I'd be happy to do anything in the next half hour that will make us...

Woman: (Unintelligible).

(Kurt): ...forget - yes, yes it is. Just move on. Maybe we can see how a crisp paper airplane flies.

Man: Nicely done (Kurt). It's a very nice plane as well. I saw it. I'm confused. I'm confused. I just need to say I don't understand what it is about we're asking questions and looking for answers that you don't seem to understand Stephanie because there was no proposal.

There were a group of statements - no, no. I'm sorry. But I'm not prepared to say it and let one person say something and not respond to it if I disagree. There was no proposal.

Man: Were you talking about what Goran was saying?

Man: Yes. He's making a proposal. He simply said we're asking a series of questions, getting a bunch of answers and we'll come back to you. Now I know that some of you don't believe that. But it doesn't change the fact that that's what he said. And I know that's what's going on.

Stephanie Perrin: Well let me explain what I mean then and I'll try and do it in very neutral terms. What Goran is seeking is a way to make ICANN the sole access portal for third parties seeking information for a unified access model. Now I'm not...

Man: No. That's not what he's (seeking).

Stephanie Perrin: ...saying that is the model.

Man: That's not true. That's not what he's saying at all.

Stephanie Perrin: That's not the model he's advancing but that is the series of queries that he is embarking upon.

Man: But what's wrong with asking the question?

Woman: Why?

Man: Why not?

Woman: Why?

Man: Why not?

Woman: Well this is the solution.

((Crosstalk))

Man: Wait. Wait, wait. Is this the conversation we want to have now? Yes. I feel like there are a handful of you that really want to have that conversation; many of you who don't. And that's why I'd encourage that conversation and outside our mandate probably to go and have it, right.

That's why we're physically here together is we can use these moments on the edges of the meeting face-to-face, not over chat, right, not on a conference call. But we can take it (unintelligible).

So I don't know. I'm feeling like there's a zone right now that's - we're in a place right now that's really hard to just sort of like oh let's go back and look at C. Right?

Man: Yes.

Man: That was my suggestion. Yes. Yes. I think - so let's just have some water and go with (Matt)'s suggestion for a second. Given where we are right now, we have options of doing a little more work, right, our work, which is this stuff up here or the options of adjourning. Just a quick show of hands. Who would prefer the latter of just adjourning now and pushing that work into tomorrow?

Prefer to do a little bit of work right now. Finish up the day. So it's, you know, roughly 50-50. Not exactly but sort of rough. That's a (trick), isn't it? Okay.

So (Diane), why don't you say something and then I think maybe (Gina) and I or (Kurt) can make an executive decision.

(Diane): I want to say something positive because I've been known to be a positive person. I try to be. Is that I think that the positive that we could take from

what we said is that you're being given the opportunity to make recommendations that will be taken very seriously.

And we've been given a very important platform. And we should make the most of that because we're all here to represent different parties' interests and speak on behalf of other individuals and that's a big responsibility.

And now we've been given even a broader platform by ICANN or to say that this is a very fundamental and important time in their history and in their structure to make very, very serious recommendations.

And we should take that with honor and with seriousness and look at our work here and try to get through it. And then while we're doing it, be making these broad recommendations that are really going to have very, very important value.

So I think that we can maybe just leave today on that positive note because I think that everybody is very spent and that to try to crank out the tiny little bit more of work is just going to bring just, you know, people are just maybe beyond the scope of being able to just do that.

Man: So (Fiona) has - oh. Were you raising your hand for (Thomas)? What kind of subterfuge is that? Look it. I don't want to go around the room. I just want to say to (Thomas). Everybody gets 30 seconds.

(Thomas): I think when we discuss the individual sheet, we get stuck at times and we have the group working upstairs with (Kurt) to discuss the legal basis and how we can advance on that. And the half hour or what we had was fantastic.

And I think that we agreed in the breakout group some tweaks to the table that would help us wrap things up in a quite efficient manner. And I have to confess, I'm jetlagged. I'm exhausted for today. But I'm more than willing to

start earlier tomorrow. Fix the spreadsheets. And I think that we will make up with more efficiency tomorrow.

Man: Right.

(Thomas): Right. So yes. I think, you know, I think (David)...

((Crosstalk))

(Thomas): ...I think (David) and (Kurt) will need to manage the group, right. So I think there are other questions that can be worked on by other team members. But I think if we had like 45 minutes or an hour so we can start at 8:00 or so to fix the remaining things, I think we would be in good shape to make faster progress with the entire group.

(Ashley): Okay. I'll put it in the simplest of terms. I think what we've done in the last couple of days has been really I think tremendous in the sense that we're all listening to each other.

What we just heard from the ICANN CEO was interesting. But let's just leave it there because I think we all agree that that is outside the scope of our conversation.

And I actually think that if we all start working together again even for like 20 minutes, I think we'll kind of get ourselves back in the right frame of mind. But even if that's just (Thomas) or whomever else giving us an update as to what that conversation was upstairs, I think we go to bed thinking about what we're tasked to do with as opposed to the words we just had.

Man: (Milton). What she just said?

(Milton): What she said.

((Crosstalk))

Man: Yes. (Dan), is my beer fridge still here and is it still full because when I left here I left a full beer fridge?

Man: (Unintelligible).

Man: Yes. All right. So all right. So (Thomas) is going to report on what we did with regard to legal basis.

(Thomas): So it appeared like the missing element for some was that we have the purpose named at the beginning of the spreadsheet and I think that was an issue that (Lindsey) had. She was missing the complete processing activity to be attached to the purpose.

And I think that Stephanie was missing the responsibility part and so what we're going to do and we've done it for three processing activities already and we're going to continue for the remaining ones is that we in plain language describe the processing activity and we also allocated responsibility.

And for three of the 13 sheets we've already established that we think that there's a joint controller situation. And so I think that having done that, there are things would fall into their places. So I'm quite confident that we can make good process after that. So that's it in a nutshell.

Man: So our plan is to meet as a small group tomorrow at 8:00?

Woman: Yes.

Man: Yes.

Man: Yes. All right.

Woman: (Unintelligible).

Man: Marika. Okay. Let's - we're about to close.

Marika Konings: Let me just upload the latest version of the document in the Adobe Connect room so you can hopefully see it. And maybe we can switch to full screen Terri. If we can go to full screen...

((Crosstalk))

Man: What are we talking about right now?

Marika Konings: So that was the UDRP URS dispute resolution and mechanism. So a few people got together and there were a couple of issues here. So one of the items that we discussed was restating or reframing the definition or the description of the purpose.

And (as far as) everybody said that you had the solution there and I think at least those that were there agreed that the way it's currently reframed in line with what is in the ICANN bylaws and it will hopefully work.

So they revised a purpose - ICANN purpose would be coordinated development and implementation of policies for resolution of disputes regarding the registration of domain names as opposed to the use of such domain names and then a reference to the ICANN bylaws.

What you probably can read here is the comment that we made because we also discussed - and again - I'll release the document in Adobe Connect so you can scroll and zoom in. I'm not sure if we can make it really - well, okay. There we go. Yes.

Woman: Sorry.

Marika Konings: So there's a comment there that you probably don't see but I can say what it is because, as you know, we're also discussing the three other dispute resolution processes that I think specifically relate to registry operations.

And we kind of (parked) that for now until I think the conversation on the legal basis is clear because if the legal basis would be the same for UDRP and URS as it is for the other three, they might all fall within the same worksheet and may just be a question of adding those to the definition.

But if they would fall under another legal basis there probably would need to be a separate worksheet. And I think we're seeing at least agreed to look into a big more detail those three to really understand, you know, what is needed from a data processing perspective and how that fits in.

The other thing that the group discussed related to data retention. More quite lively a discussion there but I think - and of course anyone can correct me if I'm wrong.

I think where we settled is that basically whatever is decided for A would also apply here. And I think especially the registrars indicated here that they would like to have uniformity in relation to data retention.

So wherever that settles is what should be recommended here as well or at least that would be the suggestion. And I think to some of the points that (Diane) had raised, I think what the group also discussed is that that would likely fall within the other purpose that will be discussed tomorrow with - in relation to third party legitimate interest in getting access to some of the information.

You know, if someone wants to go to court or subsequent procedures after a UDRP URS has been completed. And one additional proposed recommendation that came out of the conversation is to recommend that ICANN org should enter into data processing agreements with dispute

resolution providers in which the data retention period is addressed considering the interest in having publicly available decisions.

Because I think there was also some concern expressed that even though those decisions are currently publicly posted, there's no specific requirement or obligation to do so. And I think it's not clear what impact GDPR may have on that going forward.

So that's I think a separate recommendation that the small group at least would like to put forward. And I think that's it. I'm looking at those that were in those conversations and if I got anything wrong, please raise your hand. And (Milton) wasn't there so he can't tell me I'm wrong.

Man: Oh, I just have a clarification question if you don't mind. So the words for resolution of disputes regarding registration of domain names is highlighted and what does that mean?

Marika Konings: Yes. So this is Marika. So that's actually the comment that's on the right that kind of explains that, you know, depending on where the legal basis lands. The other three may be incorporated here. But if the legal basis is different, they may need to own a worksheet.

This is kind of just to (park) that for now but that people are clear that we haven't forgotten about it. It's just dependent on the outcome of the legal basis conversation to decide, you know, where it will fit.

Man: Okay. So (Ann) did some good work. Like there's a pending issue on the legal basis question. Data retention. There's a recommendation. And the language up at the top is new language, again, dependent on the resolution of the legal basis conversation. Else that people want to say about this or does this feel like we're in the right zone? Feels like the right zone? Okay.

Maybe we should talk about briefly what's going to happen tomorrow. Okay. So (if we) talk about tomorrow, we've got some pending stuff to deal with. Folks up here who are working on Group C have a really nice proposal to share that's actually quite clean.

And again, is again thinking about the legal basis conversation, the lawfulness. But Group C just need to be reviewed by you all and it's hopefully not a long conversation.

Nobody has dealt yet with the new (pros) purpose (end). And so we got - somehow got to get to that at some point tomorrow.

Woman: (Bill), we did a small group for (N) for the ICANN purpose that only you all (paint) so we didn't do anything. So but (Kristina) did - well he didn't think it was a purpose so we were like, oh, guess that will take - won't take very long.

Man: I disagree. We did something. We didn't take very long but we did.

Woman: Yes. But (Kristina) did offer to do an initial population of the worksheet and we actually just need to email her the worksheet. I haven't done that. But she said she would do an initial population for folks to look at to help further evaluate that.

Man: How about tomorrow? I think having this conversation about legal basis and lawfulness that (moss) and the group upstairs were working - or (Thomas) -- need to say that (unintelligible) -- (Thomas) and the group upstairs were working on.

That is going to help us make progress on the others. And then we've got the macdaddy here, Number B - Letter B. And this is going to be a big part of our work tomorrow and we're going to have some techniques for diving into this and making this productive. It's very tricky this one because it has multiple things baked into it. And (unintelligible). Okay.

There's a bunch of things in the parking lot that we'll prioritize based on what needs in person conversation. And we'll make some determinations about how to work through those conversations tomorrow. Okay?

And then when we finish up, we really need to finish up with some kind of game plan about how to make progress on the pending issues and what to expect for your in person meeting (in Barcelona).

Woman: So I don't think I heard you mention it's also the new purpose that (Benedict) and maybe (Farzaneh) were going to write up on research and bring that language in.

Man: So for me I think it's really important for us to make a lot of progress on the B family that we skipped because those were the - I thought - I saw today as us honing our use of these worksheets so we would become expert at it.

And then applying those skills we've learned today to the slightly harder ones of the B group, which encompassed a lot of the purposes that we sort of folded into one that I think is important to us. So I want to not make sure that's left on the cutting room floor at the end of the day.

Man: I have a feeling that what will happen is depending on how that conversation goes in the morning with the group - again, 8:00 am there's going to be a group of us here working through exactly what (Thomas) said. And then for the rest of us we'll be here at 8:30 and we're going to dive in most likely understanding that and then go right into the top issue (and where) we can put pressure (on).

Man: Cool.

Man: All right. So that's the plan. So 8 o'clock here for those who want to be part of that conversation thinking about lawfulness and also thinking about adjusting the (RS) format.

Man: (Got you).

((Crosstalk))

Man: So we'll send (Caboose) a note - (Caboose) a note saying we'll have some folks starting at 8:00.

Man: You know very well that if we didn't do that then we would spend five hours with him telling us that he missed out on the 8 o'clock session.

(Thomas): For the 8 o'clock meeting there will be no remote participation facilities.

Man: That's good.

Man: Oh I'm sorry. I thought it was in this room with remote participation facilities. I withdraw my request.

Man: Okay. So all right. Let's say that's it for the day. Let's go and have some alcohol and celebrate what was a really fantastic progress in using these data element worksheets, which was hard logging. And we made through a lot of progress and we have a lot of success (to be) excited about.

And let's hopefully come back in tomorrow with enthusiasm to take on some of the harder (unintelligible). All right. So thank you everybody. And I know it was like a little bit of a sideways thing in the end there.

So I encourage you over some drink of some nature to talk to each other about that. If you have different visions about it, take advantage of this face-to-face time to talk through that. I recommend (you do that). We'll see you

here at 8:00 am if you want. Everybody else at 8:30. Have a great night.
Eight am right here.

END