

**Transcription ICANN61 San Juan  
Next-Gen RDS PDP Working group  
Part I  
Saturday, 10 March 2018 at 08:30 AST**

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

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Chuck Gomes: Again, for those at the table please do not move the base of the microphones, just move the microphone itself either way and of course we always want you to speak into the mic so that everyone can hear.

Let's go ahead and start the recording please? And let me know when it's ready. Thank you. The recording has started. Do we have any remote participants so far? We do, good, okay.

Okay, I'm Chuck Gomes, the chair of this committee. I'm going to turn it over to Michele Neylon in a minute to get us started. But let's do a few logistical things first. Again, if you're at the tables up here, do not move the base of the mic, rotate like I'm doing here the mic itself. For those in the audience, you're welcome to participate in this meeting. We have a mic set up in the middle back there, you can see. Please go the mic if you'd like to join in in any of our discussions today.

Always identify yourself when you're speaking please. This will – there will be a transcript made of this well and the recording so it helps the transcribers know who's' speaking, even if you identified yourself before, please do it again. The - any other logistical things I need to cover? I think that covers them.

So I'm turning it over to Michele to get us started.

Michele Neylon: Thanks, Chuck. Michele Neylon for the record. How you doing? Okay, so I think some people are going to be joining us a bit later because apparently there's queues for various breakfasts and everything else. Okay, so this is the face to face meeting for the Next Generation PDP basically replacement for Whois. So next slide please. Oops.

Woman: Sorry.

Michele Neylon: That's all right.

Chuck Gomes: There aren't very many slides for you, sorry. You have to do it from...

Michele Neylon: From memory.

Chuck Gomes: Well here.

Michele Neylon: That's okay, I can do it from memory.

Chuck Gomes: Here's the things you're covering.

Michele Neylon: Okay. So thank you, Chuck. As you can tell I don't operate very well in the morning. So as this is an ICANN working group meeting, the – we have to ask people at the beginning of the meeting if there are any changes to people's statements of interest or conflicts of interest or any of those – any changes anybody want to notify us? No, okay.

So the – this PDP working group, Chuck Gomes, who is sitting to my left, is chair. And the way we've set this up is that there are representatives from different stakeholder groups who are vice chairs of the working group so I'm

here as vice chair as member of the Registrar Stakeholder Group. And where are my other two vice chairs – I'll let them introduce themselves very briefly.

Alex Deacon: My name is Alex Deacon with the Motion Picture Association representing the Commercial Stakeholder Group, CSG.

Marc Anderson: And good morning, everyone. I'm Marc Anderson from VeriSign and I'm representing the Registry Stakeholder Group as vice chair on the working group.

Michele Neylon: Thanks. And the fourth member of the leadership team for the working group has some logistical issues; I think he's stuck somewhere between Australia and here and that would be David Cake who is from the Non Commercial Stakeholder Group.

I'll also ask people in the room if they could just say who they are. We've got a lot of very helpful ICANN staff people and pass to them first and then we could go around the table very quickly just so people can say who they are.

Lisa Phifer: Good morning. I'm Lisa Phifer and I'm with ICANN staff.

Caitlin Tubergen: Good morning. My name is Caitlin Tubergen. I'm also with ICANN Org.

Marika Konings: Marika Konings, ICANN staff.

Julie Hedlund: Julie Hedlund, ICANN staff.

Fabricio Vayra: Fabricio Vayra, Perkins Coie.

Mason Cole: Mason Cole, Perkins Coie.

Man: (Unintelligible), working group member.

Chuck Gomes: Please note that you're going to need to get fairly close to the mic to be heard, okay?

Maxim Alzoba: Maxim Alzoba, dot Moscow.

Vlad Dinculescu: Vlad Dinculescu, DNS Africa.

Reg Levy: Reg Levy, Tucows.

Carlos Raúl Gutiérrez: Carlos Gutiérrez, GNSO Council.

Alan Woods: Alan Woods from Donuts.

Beth Bacon: Beth Bacon, PIR.

Holly Raiche: Holly Raiche, ALAC.

Christopher Wilkinson: Christopher Wilkinson, EURALO.

Jim Galvin: Jim Galvin from Afilias.

Andrew Sullivan: I'm Andrew Sullivan. I'm paid by Oracle Dyn but I don't speak for them.

Volker Greimann: Volker Greimann, Key Systems.

Griffin Barnett: Griffin Barnett, Winterfeldt IP Group.

Michele Neylon: And I see Stephanie, if you just want to say who you are quickly as you're sitting down and then we'll go to the rest of the room.

Stephanie Perrin: Stephanie Perrin, NCSG.

Michele Neylon: Thank you. Okay, do we have a roaming mic or do people want to go up to the microphone and say who they are, those of you sitting in the room, working group members please? No need to be shy.

Farzaneh Badii: Farzaneh Badii from NCSG. Oh everyone..

((Crosstalk))

Michele Neylon: No, okay.

(Peter Godinik): (Peter Godinik), just an observer.

Man: Yes, I'm not in the working group but (unintelligible) from Valideus.

Woman: My name is (unintelligible), I'm observer and from GAC.

Emily Barabas: Emily Barabas, ICANN Org.

Man: (Unintelligible) observer from ICANN GAC.

Greg DiBiase: Greg DiBiase, Amazon Registrar.

Jennifer Scott: Jennifer Scott, ICANN Org.

Maguey Serad: Maguey Serad, ICANN Org.

Jody Kolker: Jody Kolker, GoDaddy.

Diana Middleton: Diana Middleton, ICANN Org.

Aaron Hickman: Aaron Hickman, ICANN Org.

Eric Rokobauer: Eric Rokobauer, Endurance Registrar, observer.

(Frank): (Frank) also with Endurance, observer.

(Katherine Markenson): (Katherine Markenson) from dotNO, the Norwegian Registry and observer to the group.

Woman: (Unintelligible) from Uruguay. I'm a registrar and member of the working group.

Woman: (Unintelligible) I'm from Taiwan and I'm just an observer.

(Sophie Lan): I'm (Sophie Lan) from Taiwan. I'm also an observer.

(Jeff Ye): (Jeff Ye) from (unintelligible), the registrar.

Gg Levine: Gg Levin, NABP, just an observer.

David McAuley: David McAuley with VeriSign here as an observer. Thank you.

Chuck Gomes: Thank you very much to all of you. And thanks, Michele, for getting us started. Let me say what I said earlier, this meeting is open for participation by everyone, not only working group members, and you don't have to be on the observer list of the working group either to participate, we just ask that you go to the mic if you're out there in the audience when you would like to contribute or ask a question so as is the usual practice at these ICANN meetings they're open – this meeting is open – this working group meeting is open to everyone here whether you're an observer officially or not and certainly to working group members.

So thank you very much for being here early, we appreciate that; we're sure we'll have more people join in. But what I want to do now is turn it over to Alex to give a very brief introduction. And again, let me tell those of you that came in a little bit later at the end of the able to my right over here is a more

detailed – it's our latest newsletter which was just published last week, thanks, appreciate that. If you'd like one of those to have more detail than Alex is going to cover about where we're at and please take one of those and you can read that at your leisure. Again, that was just published this last week so it's very current. Thanks. Alex, it's all yours.

Alex Deacon: Thanks, Chuck. So real quickly, just to bring everyone up to speed on kind of where we are and what the current discussion is and what's next – thanks. So remember what we're – what we're doing here is attempting to define the purpose of collecting, maintaining and providing access to gTLD registration data and consider safeguards for protecting data using the recommendations in the Expert Working Group final report as an input to and if appropriate as the foundation to the new gTLD policy.

So we've spent good two years having – discussing these things. We're still in Phase 1 of the working group deliberation. And we're working hard to get to a first initial report at the end of Phase 1 which we hope to get to by June 2018. So I think it's important just to remind people of the two questions here at the bottom, right, during the first phase of its work the working group has been tasked with providing recommendations on the following two high level questions.

What are the fundamental requirements for gTLD registration data? So we're talking about that and have been around purposes and so on. And is a new policy framework and next generation RDS needed to address these requirements? So I think that's probably a – I'll leave it there for now, Chuck, unless you think additional information is needed. We're going to spend time today talking about details around kind of the users, if you will, and data of registration data. So – sorry, not so much the purposes, we'll get to that soon, but also we'll talk about some of the work that the working group is doing so maybe I'll just leave it there and pass it on, thanks.

Chuck Gomes: Thanks, Alex. I just want to add a little bit to what Alex said there. Again, there are three phases of our charter you can see in the table in blue on the upper right of the slide there that talks at the bottom about Phases 2 and 3. And you can read those for yourself. But the – we’re really planning two initial reports just for Phase 1. So the – we’re targeting starting work on the first report in the middle of phase – it’ll be hopefully in the middle of Phase 1 come June. We’re going to do our best to try and meet that; we haven’t done real well at meeting targets yet but we’re going to do our best.

And then depending on the results of that first initial report and the input received, and at that point the GNSO Council has to make a decision about proceeding forward and then we would move on to the rest of the questions for Phase 1, which are Questions 6-11, as you can see on the slide. So with that said, let’s talk about the goals of this meeting and I’ll turn it over to Marc for that.

Marc Anderson: Thank you, Chuck. This is Marc Anderson. And I’m going to talk a little bit about what we’re going to focus on particularly today but really what our goals are for this ICANN 61 session. And we had a – a leadership team breakfast this morning and we talked about breaking this up into manageable chunks, trying not to solve all the RDS problems at once. And I think that’s a good way of summarizing what we’re going to try and do here in these two sessions today and Wednesday.

We’re going to take a chunk of one of the questions or I guess two of the charter questions. You see those highlighted on the slide, “Who should have access to gTLD registration data and for what purposes?” And, “What data should be collected, stored and disclosed for those purposes?” We’re going to focus on an aspect of those questions, we’re not going to try and solve all of those in their entirety, but to focus the discussion and get the working group focused on these topics, the leadership team came up with three questions. And these are highlighted in the third bullet point there, “Who associated with the domain name registration needs to be identified and/or

contacted for each purpose? What is the objective achieved by identifying and/or contacting each of those entities?" And finally, "What might be expected of that entity with regard to the domain name?"

And those of you who were part of the discussion at ICANN 60 know we broke the working group out into individual discussion groups. We had discussion groups for each of the EWG defined purposes for RDS. And those discussion groups came back during the ICANN 60 session and presented to the full working group the results of their discussions. And so what the leadership team did is ask each of those discussion groups to consider these three questions. And what we're going to spend today doing is listening to the reports of each of those discussion teams on those three questions for the EWG purpose for which they were defined.

If you could go the next slide? Now Chuck made me promise not to read all the words on this slide so don't worry, I'll leave that to you to read the words. But, you know, what I think is important there is if you look at the names, if you look at the left hand column, the name there, those are each of the – those are each of the purposes we're going to be hearing from the discussion teams on today. So each of those topics in there, again, I promised I wouldn't read all the words, but if you take a look there for yourself you'll see each of the topics. And if you go onto the next slide, the rest of them are there. So you're welcome for not reading all those words.

But as we go through today's session we're going to hear from each of the discussion teams on these topics for the three questions that were posed to them. And I want to highlight two things, the first thing is that we know those three questions don't cover every aspect of the EWG purposes. And that came up in my discussion team, you know, there are use cases, there are topics that are not covered there and we know. We're not trying to solve everything, we're trying to focus the discussion on a particular aspect of these purposes.

And the other thing I want to note at the bottom of this slide as well, these are just the EWG purposes; we are in no way representing this as the entire list of purposes. There will be an opportunity later on in our discussions to talk about other purposes, other possible purposes that are not encompassed here. We made the decision a while back to use the EWG report as our starting point but this is not the definitive list of all possible purposes to be considered.

Chuck, I think that covers it.

Chuck Gomes: Thanks, Marc. And by the way, this presentation is available on the working group wiki. It will also be posted on the ICANN meeting page for the meetings this week, so you can go back and refer to that if you like, and feel free to share that with others.

Okay, now we come to Agenda Item 4, and this is going to be the agenda item that we spend most of the time on today. And we're going to go through each of those purposes that Marc just briefly highlighted and they're not going to be in the same order you saw on that slide because of availability of presenters and so forth, but let's go ahead and go to the next slide please.

The first one we're going to cover was our Drafting Team 4 which is a proposed purpose, and all the purposes that we're focusing on please understand they're proposed purposes. The working group hasn't finalized whether we're going to recommend these as purposes for some sort of processing of RDS data, okay? Now there are two of them that we'll talk about today where we have made some progress in that regard, and that'll become clear later on.

But all the rest we haven't necessarily identified them as a purpose at least from a rough consensus point of view on whether they're a purpose for doing some sort of processing of the data. Now I need to make this clear that our intent in this meeting today is not to make any final decisions on any of these

purposes at least in the first part of our agenda, the main part of our agenda. The drafting team – the intent of the drafting teams was not to recommend final positions of the working group, we will get there next.

The intent of this teamwork that has happened over the last several weeks is to hopefully set a stronger foundation of the whole working group's understanding of these proposed purposes so that when we next start deliberating on each of them, that will flow more readily. That doesn't mean we won't have disagreements, guarantee we will. And we'll work through those. So please don't think that what each of the presenters is going to do show us today and go over is some effort to make some final decisions; that is not the purpose of this exercise. You will find out in almost all, if not all, of the presentations that within the drafting teams there were differences of opinion and the presenters will talk about those.

After each presenter presents and other drafting team members have a chance to provide input we will open it up to the whole audience if you have questions or comments but we're not going to try to reach any – or determine any level of consensus in this meeting today. We want to make sure that there's good understanding of what's presented and that's where we would like to focus our attention.

Try not to get ahead of where we're at. Again, maybe at the end of this meeting, if we have time, we will start deliberating on one or two of the purposes, that's when we'll get to – where some of you are going to want to go probably before then but you'll find me pushing back on that. So understanding is our goal with regard to these presentations. If you will honor that we would appreciate it.

Now, I think Brian Scarpelli – is he here?

((Crosstalk))

Chuck Gomes: Oh Fabricio is going to do it, okay, that's – Fabricio, please take over for the first one.

Fabricio Vayra: All right. So I think we're going to discuss real quick the domain name purchase and sale. Do they have it up there? Okay. Put this up there so you guys can read along.

Chuck Gomes: While they're bringing that up, this is Chuck Gomes again. Remember to identify yourself when you're speaking. I know nobody's had much opportunity for that so far but just remember that if you do speak in the mic. And secondly, for those that have come in since I announced this, the end of the table on the far right is a detailed handout, it's our latest newsletter that was just published last week, or this week really, earlier this week, that you're welcome to grab a copy if you'd like a little more background in terms of where we're at, that's available there, help yourself to that. And that is available on the working group wiki as well. Okay, slides are up, Fabricio.

Fabricio Vayra: Perfect, thanks Chuck. Fabricio Vayra for the record. So just going over domain name purchase and sale. So as you can see up in here on the slide, the purpose really is to enable contact between the registrant and the third party. This is to assist both the registrant approving and exercising a property interest as well as the buyer confirming that property interest. The definition that we have here is really targeted toward enabling contact between the registrant and the third party. This is for unsolicited domain purchases, queries, and then important to this is not just the contact but also to complete and confirm the transaction that was agreed upon.

The first question we have here is who's associated with the domain registration needs to be identified and/or contacted for each purpose. We've split this out into three lines here but really you have the third party buyers, they need to identify the person or entity and this is really to make sure that you've nailed down who currently holds the rights to the domain name that's being purchased. This party could be the registrant or could be just the

current user, whoever is listed on the Whois. The example we gave here is a privacy proxy provider, for example could be reached.

And then buyers, they need to identify obviously who they're contacting to buy a domain name. But important here we thought to highlight was that a buyer also, in order to understand what it is that they're buying, kind of a marketability test, you need to know who previously owned the domain name. One of the things that happens quite a bit in this industry as we know is that when someone goes to buy the domain they update the Whois either to a broker, privacy proxy, etcetera, and we discussed that often a reason for that is because you're trying to kind of erase or blur what the history or prior use of that domain name was.

So someone, obviously for example coming in and paying seven figures for a domain name would like to know who previously owned it and if it's been associated with something that they don't – they would find, you know, not reputable, etcetera, or not fit for purpose for their purchase. And with that I'll pass it over to Brian who is going to cover the next two questions and then I guess we'll open for questions. Brian.

Brian Scarpelli: Thanks. Sorry for my tardiness, appreciate it. Right so the second question that we had was, "What is the objective achieved by identifying and/or contacting each of those entities?" And you can see that we – it's almost a sort of a chronological organization really the way we broke it out. But prior to the purchase knowing who to contact and then next for, you know, due diligence purposes knowing – getting to know as much as you can about the – about who holds the domain name and you know, naturally. And then last in completing the sale of the domain name knowing who the old and the new registrant is to verify that it's the real deal.

Just really quickly, and again I don't want to just read these to you, but the third question that we had here is, "What's expected of an entity with regard to the domain name?" You know, we did have some discussion about how a

potential seller may not want to be contacted for this purpose and doesn't have to reply. We, you know, another expectation, an important one we talked about was the expectation that the registrant or the privacy proxy registered domain names do have that legal right to sell the domain and authenticity of the communication and the identity of the buyer and seller when relayed through the privacy proxy service.

Lastly, I mentioned here, that once the seller initiates the transfer of the domain name to the buyer it's expected that the transfer process will complete. I see – oh sorry, there's one final paragraph on the next page. If you scroll down a little bit you'll see it, yes, I think. That we, you know, and then just to mention that some further steps may need to take place depending on the terms of the purchase and the sale and we mention here the example of when an escrow agent is involved how they're expected to verify the transfer before releasing the funds. Thanks.

Chuck Gomes: Thanks to Fabricio and to Brian. And again, because this is the first one we're covering – I won't repeat this every time unless I see it's needed, but our goal in this meeting is to understand the answers to these questions and the proposed purpose being discussed. So let me now turn it over to – are there any other drafting team members for Drafting Team 4 that would like to add anything on this particular one? If not, I'll – or you can still jump in if you decide you want to, but let me open it up to the entire audience.

Is there anything in this particular purpose – proposed purpose that you have a question about? Do you think that they missed something that might be good information in helping our understanding about this proposed purpose? Please go to the mic if you're in the audience, if you're at the table just let us know. You can also raise your hand in Adobe.

I'll say again, if those of you in the audience have a computer and would like to log into Adobe Connect to participate by raising your hands and so forth, please feel to do that, the link for that is on the ICANN meeting Website for

this particular meeting. Anyone have any questions, anything you want to add to this? Caitlin, go ahead.

Caitlin Tubergen: Thanks, Chuck. We have a question from a remote participant. Question is from Rubens. "Is the expectation that anyone can confirm domain ownership or that just the person who the domain owner is dealing with can verify that because the use cases point to the latter."

Chuck Gomes: And I'm not going to answer these, I'm going to let members of the drafting team respond so please feel free if you'd like to respond.

Caitlin Tubergen: Repeating the question, the question is, "Is the expectation that anyone can confirm domain ownership or that just the person who the domain owner is dealing with can verify that?"

Fabricio Vayra: So I think you're right...

Chuck Gomes: Remember to identify yourself.

Fabricio Vayra: Sorry, Fabricio Vayra for the record. So I think you're right, Rubens, that it points to me, well, to me it points to the former because if it's an anonymous purchase and I'm trying to buy a domain name I don't think – unless I'm misunderstanding the question, the domain registrant can't control whose contacting them, right?

Because I as the third party buyer am reaching out anonymously or, you know, to trying to reach the registrant, so it needs to be something that's just readily available; it can't be something that the registrant decides – maybe they decide at the frontend as an opt in, I don't know, but it needs to be something to facilitate a anonymous reach-out you need to be able to reach out to the, you know, the information needs to be available. Is that answering the question?

- Lisa Phifer: Yes, this is Lisa Phifer. Just to follow up on that. So I think what you're saying, Fabricio, is for the frontend of this process you need public access in order to identify the potential seller. But I think Rubens's question might be the verification of ownership after that initial outreach and does everyone need to be able to do that or just you as a potential buyer?
- Fabricio Vayra: You know, I think it's just the potential buyer at that point. Yes, Fabricio Vayra for the record. And just for the record, I gave up coffee a couple weeks ago, so thank you for that, Lisa.
- Chuck Gomes: Hopefully that answered your question, Rubens, if not let us know in the chat or if you'd like to get back in the queue, please speak up. Marika.
- Marika Konings: Yes, this is Marika. Just to note as especially that Fabricio doesn't have access to Adobe Connect, Rubens posted some follow up so basically he says, "Domain name registrant can supply a lookup key to potential buyers. Contactability is different from publication of the data." And he does confirm that the feedback provided responds to his question.
- Chuck Gomes: Susan, go ahead.
- Susan Kawaguchi: So in response to the last comment by Rubens, you know, having purchased a lot of domain names after registration, you know, it would – it was very important to know what else that registrant was doing with his portfolio of registrations too. So it isn't – you don't focus simply on the one domain name, you – at least I wouldn't. A best practice would be to look at the registrant and what else he has done with domain names. And so it – if I became aware of – say it was a proxy registration and I became aware of his actual contact information then I would go search that and find out what other domain names and what his portfolio was comprised of because there is a reputation issue with buying a domain name; you don't want to find out that oh it was actually associated with content that your company doesn't want to be associated with somewhere in the past.

Chuck Gomes: Holly, go ahead.

Holly Raiche: Holly Raiche. I think the next question then is how – to what extent do you have to establish somebody is actually a bona fide purchaser? Because either that opens it up to just anybody anytime or there's some kind of threshold that has to be crossed before somebody gets that kind of detailed information. Thank you.

Chuck Gomes: Susan, go ahead.

Susan Kawaguchi: Susan Kawaguchi for the record. No, that's a good point. And if you're not interested in selling your domain name then you're not going to respond so, you know, I mean, we had that happen frequently that we'd really like that domain and we would have paid good money for that domain name but no one ever responded so they're not interested. But if you are interested in selling your domain name then I think you have – there is a duty if you want to continue on with that to disclose more information about yourself and your portfolio and your activities just online activities.

Chuck Gomes: Go ahead, Michele.

Michele Neylon: Thanks, Chuck. Michele for the record. Just on that, I mean, you don't really need that to be just Whois though, and if somebody is listing say on (CEDO), for example, if they list their entire portfolio and there's an option to check a box so that you can go in and you can see every single domain name that they're selling, I mean, wouldn't that give you the same thing? And (unintelligible) shaking your head doesn't work very well for audio, Susan.

Susan Kawaguchi: So Susan Kawaguchi for the record. Not in a way I manage domain name purchases. I would want to see the full portfolio because there's a lot of players that – or registrants, let's call them that – out there that have a wide variety of domain names. And, you know, it is interesting what they will

sometimes redirect, you know, tremendous amount of their portfolio to content that you would not be interested in being associated with. So actually knowing as much about their portfolio – I'm not asking for their home address necessarily. If they want to get paid they're going to have provide some other information, but really just a list of domain names so that I can – could use those for some additional research.

Chuck Gomes: Thanks to both of you for that. Now we have from the audience, please.

Farzaneh Badii: Farzaneh Badii speaking. I have not read the document, sorry, but does this apply to all the domain name registrants? Because this is very – this is a very business-oriented request to be contactable and I don't think all the domain name registrants who are not businesses would want to sell or they care about the reputation. So applying this on a larger scale so it's not – it's only business?

Michele Neylon: Thanks, Farzaneh. Michele for the record. This is within the context of if you have a domain name that – so let's say you're actively selling a bunch of domain names, so that's, you know, part of your business model or if somebody – if you have a domain name that somebody or a company wants to buy and they're trying to do due diligence on you, I don't think anybody is suggesting in this particular context that all of this data needs to be available for anybody and everybody. Unless Susan or Fabricio or somebody wants to contradict me, but, you know, it's specifically for this kind of scenario which is specific to buying and selling domains.

Farzaneh Badii: Okay, thank you.

Chuck Gomes: Thanks, Farzaneh, for asking that question. And by the way, you're a working group member so feel free to come up to the table, there are a few slots available. It's okay to be there but we welcome you up here as well. Any other questions or comments on this one? Go ahead. Yes, you got it, okay good. James, go ahead.

James Bladel: Oh thanks, Chuck. James Bladel. And just following up on Farzaneh's point, it sounds like this scenario is very specific to a particular use case or particular buyer. Some buyers may be perfectly satisfied to purchase a domain name from someone without knowing this information. I think the analog is if I were to purchase a car from Carlos is it necessary for me to know about all the cars that he's owned in the past or might own in the future.

I think that that may be useful in a business context, that may be useful if you are trying to figure out, for example, did he use the car to, you know, illegal street racing or something like that and cause damage to it, but I don't think it's always going to be germane and I would caution against building a very, very specific use case into a global policy.

Chuck Gomes: Thanks, James.

James Bladel: Thanks.

Michele Neylon: Caitlin will now to go to some of the remote participants.

Caitlin Tubergen: Thank you. Question from Steve Crocker, "I am confused. It would seem the sensible thing if the potential buyers are sent a note which reaches the account holder. The pathway may be via forwarding via the registrar in case the account holder does not want to be known. I don't see any issue with respect to whether the account holder has control of the domain name."

And then there's a specific question for Susan. "It seems you want it to be a requirement to be able to find out the full set of domains controlled by a single entity. Is that what you mean or is this simply a desire that you have?"

Chuck Gomes: Susan, you want to respond first then I'll come back to Steve's.

Susan Kawaguchi: Just to address Steve's question and sort of comment on James. You know, if someone – a registrant wants to sell their domains and do business with large corporations, there is a certain amount of due diligence that's going to have to happen there for that transaction to occur.

So, no, we don't need to build a system that is only for a, you know, a large corporation purchasing domain names, but I think that it should be flexible enough that if that is a requirement to fulfill a sale, that the other – that the registrant understands once they respond to that email if they don't want to sell a domain name they – nobody is forcing them to do that. But if they are willing to put a price on that domain name then that information is pretty critical to be, you know, reviewed so.

Chuck Gomes: Chuck again. And I see a couple hands up so let's start with Holly.

Holly Raiche: Susan, just to unpack that a little bit, given that the subtext of this group is about personal information, what I – it's really almost a follow up from Michele and others questions. We're not so much talking about personal information as a name identified with other names, and not necessarily for the personal information about that particular individual. Am I correct?

Chuck Gomes: Can I respond to that? This is Chuck. So when we start deliberating on each of these purposes and deciding whether it's a legitimate purpose for some sort of processing of RDS data, we will actually delve down – if it is, if we decide at least by rough consensus that it's legitimate for that, we will then look at okay, if so, what data elements would there be? So that will be coming.

Now in that regard, before I go to several people in the queue, let me set some context again. I did this a little bit at the beginning, and this will apply to all of the proposed purposes that we're going to cover today in these presentations. Keep in mind that the working group on all of these proposed

purposes has really only made – reached some rough consensus conclusions on two of those, okay? This is not one of them.

We haven't deliberated on this whether it's a legitimate purpose for some sort of processing yet or not. That will come later. We may start that process on a couple of them either later today or on Wednesday in our meeting, but we haven't gotten there yet. So keep that in mind. The working group has not at this point in time made even a rough consensus agreement that this is a legitimate purpose for any sort of access. We will get there; that's not our purpose in this right now. So but I'm not minimizing your question, it's important that everybody understand that that's coming. Okay?

With that said, Volker, I think you're next.

Volker Greimann: Yes, thank you. Volker Greimann speaking for the record. Just one note that I made to myself when I read through these purposes that it's helpful – information that's helpful for both the seller and the buyer if it's out there. But ultimately it should be the seller that controls whether that information would be out there or not. So I would say that this would be voluntary information that the buyer – that the seller could supply and the buyer would then make a decision on whether to make that purchase or not based on their own risk assessment. So it's a purpose, it's legitimate, I just don't think it's required to have – it makes the data being out there a requirement.

Chuck Gomes: Thank you, Volker. And again, we're not deciding right now whether it's legitimate or not, okay? We'll get there. Probably won't in these meetings this week on this particular one based on the order we're going to cover them but thank you for that. Beth, you're next.

Beth Bacon: Sorry, I was having a logistical issue. This is Beth Bacon for the record. Just a question for the proposed scope for this proposed purpose so we can understand a little bit better. Is it meant to apply only to those registrants that have actively engaged in a domain name selling market? Or is this meant to

apply to any registrant and it could be that any registrant would get a cold call, for lack of a better term? Because I think those are different audiences and maybe would be thought of in slightly different way. Thanks.

Chuck Gomes: This is Chuck again. Let me take a first crack at that. Keep in mind that our ultimate goal is to decide whether it's a legitimate purpose, and a legitimate purpose for what? For making some data elements available in the RDS for access, whether that access might – or it could be collection too, I'm not advocating that, okay, we'll get there and talk about that. But all we're really trying to get to eventually is whether some RDS data should be either collected or just maybe provided gated access or something.

So for example, if the working group later decides that yes, this is a legitimate purpose for some sort of access, maybe not for collection, we got to decide that later. Should that, for example, we – if we decided that registrant – some registrant data should be in the RDS, and again I'm not suggesting it should be, would it be legitimate to provide access to that information? And it would almost have to be public in this case whatever decided so that all registrants would be covered.

It's kind of hard to see where we go until we get a little further down in our deliberation in that. But if, for example, we decided that some registrant information should be public then obviously it would be available for anybody to use that to contact the registrant for a possible purchase. But we'll see where we go. Does that help a little bit? Okay. Susan.

Susan Kawaguchi: I would say 60% of 70% of the acquisitions I've done in the last 20 years were cold calls. So it wasn't on a (CEDO) site or a – and even if a domain name was listed on – sorry, (CEDO) if you're in the room or GoDaddy or any of those, I often circumvented that or tried to circumvent that because there was other issues with buying things on a platform.

Chuck Gomes: Carols, I think you're next.

Carlos Raúl Gutiérrez: Yes, I just want to make a note to Susan, you use the word “portfolio holders.” I just want to make an analogy to the discussion we had in the competition review team, which is due to come up with a specific paper on parking very, very soon. We had a very difficult time defining what parking is and when I hear your usage of portfolio strategy of somebody who has a lot of domain names registered or not, that caught my attention so it might be very useful to have a better definition, well it’s obvious I understand what you mean by portfolio holders, but it would be very useful to have a conversation on the possible analogies between portfolio holders and people holding a lot of parked domain names. Thank you very much.

Chuck Gomes: Thanks, Carlos. Chuck again. And again, we’ll probably have to dig down a little bit deeper when we actually start deliberating on this whether any sort of processing should occur with any of the data elements, but point well taken. Lisa, you’re next.

Lisa Phifer: Thanks. Lisa Phifer for the record. And Kathy, I think you’re next. I just wanted to share that during development of these answers within Drafting Team 4 Rob Golding actually contributed, he’s not with us today but he contributed some thoughts around unsolicited contact with potential sellers. And what I’m hearing from some of this discussion is that maybe there’s two different parties that are contacted or two different classes of entities that are contacted in the beginning of this process.

One would be any registrant that may or may not have an interest in selling domain names, but then the other case is registrants that specifically hold domain names because they have an asset they want to be contacted about for potential sales. So it might be useful to distinguish between those two different entities that you contact in the beginning of this answer.

Chuck Gomes: Thanks, Lisa. Kathy.

Kathy Kleiman: Kathy Kleiman. Is the microphone on? Now it is. Kathy Kleiman. And just wanted to thank the working group, an enormous amount of work has gone on in the last two weeks and so this is interesting. So for this RDS proposed purpose, I now understand better as somebody who's just come back to the working group recently kind of why we're flushing this out to talk about it in more detail than to see for the upcoming discussion about whether this is an RDS purpose for ICANN to be collecting the data of individual registrants.

And I think the case here is made pretty clearly, no, because it – because ICANN is not, you know, ultimately we'll get into the purpose and whether ICANN is the facilitator of purchases and sales. But in terms of this contacting of the registrant and others have said it before, it seems that even for this if we think about privacy by design, we create, you know, an ID that can be created that reaches the registrant and then the registrant can decide that Susan is exactly who they want to deal with and they want to provide her with all the information. But that seems to be a private transaction. Thank you.

Chuck Gomes: Thanks, Kathy. Chuck again. And again, keep in mind, we're not deliberating right now whether it's a legitimate purpose or not. But I do want to clarify the definition of processing, this is taken from the GDPR, okay. And processing can include one of several things. It can include collection, which Kathy referred to. It can include just some sort of access. It can include storing information, etcetera. Okay?

So when we say "processing" please don't conclude that we mean collection or access or anything like that. We're going to get there and we're going to have to deal with those things directly, okay? So again, our purpose today is not to deliberate on whether this is a legitimate purpose for any sort of processing at this point. But that's going to be a very important thing. And our goal right here is to make sure there's good understanding of this proposed, in caps, okay, proposed purpose, okay?

Are there any more questions or comments with regard to the understanding of the proposed purpose of domain name purchase or sale? Fabricio.

Fabricio Vayra: Thanks, Chuck. Fabricio Vayra for the record. So, Kathy, I appreciate your comment about contacting. But one of the things that we highlighted here, either in the purpose or definition was making sure that the person who owns the domain name, the registrant, the holder, the user, etcetera, can both show or verify or validate for the purchaser their property right and for the buyer to also have a third party place to validate that someone has a property interest that they're buying, because otherwise you're basically just taking it on someone's word.

And so using some of the analogies that I heard today, if I'm going to go buy a car I'm not just going to take it on your word that that's what I'm buying; I'm going to get a title. If I'm going to go buy a house I'm not taking it on your word, I'm going to get a title attorney who goes and does a title check, much like you would do a Whois check, and prints that out and puts it as part of the purchase record. So the analogies are there in most everything we buy and sell that there's a public record that needed to be checked, validated and put into the purchase. So it's not just about contact, it's also about establishing and validating the ownership.

Chuck Gomes: Thanks, Fabricio. This is Chuck again. And I'm going to close off the queue on this very quickly. I have three people in the queue; if you want in the queue on this one before we switch to the next proposed purpose please let us know right away.

Michele Neylon: Maxim.

Chuck Gomes: Yes, I have Maxim.

Michele Neylon: You have Andrew?

Chuck Gomes: Yes I do. Michele is doing a very good job and it's much appreciated by me of helping me know who's in the queue so thanks, Michele, for that. Let's go to Maxim.

Maxim Alzoba: Maxim Alzoba, dotMoscow. It's a note – we shouldn't forget that there is a difference between collection and disclosure of information and...

((Crosstalk))

Maxim Alzoba: ...verification via the provided disclosure or just verification via the means and contactability. And in this particular case of the domain purchase it's relevant only to the process of the purchase itself where registrants or party acting on behalf of the latter agrees to the process. And for example, if the buyer wants full disclosure of all domains it could be done via incentive like we give you \$5 more, via methods of contactability. You don't need personal information for that. And you might have it in return for the higher price or you might decide that, no, I'm not going to buy it in case no information was provided.

It can be tokens, for example, you are trying to contact the party to receive the token to have partial information about this domain, particular domain, or you might have token which disclose information about bunch of his domains or her domains. That's it. There is no need for public disclosure, it should be limited only to the process of purchase.

Chuck Gomes: Thank you, Maxim. This is Chuck again. And you're getting a little bit ahead of us, okay, we're not there yet in terms of distinguishing between collection and access and so forth, although I think some of what you said will be helpful in terms of understanding this proposed purpose. So let's go to Stephanie.

Stephanie Perrin: Thanks very much. Stephanie Perrin for the record. And I think Maxim is making the point that I was going to make. I realize this is implementation but

given the – that we're hoping to use RDAP for this and I know Andrew Sullivan is going to tell me I don't understand how the Internet works here, but I do have a blind faith that we can come up with mechanisms where an end – where a registrant would be able to signal his willingness to sell or provide an anonymous email or some kind of a captcha-enabled mechanism so that if, for instance, Susan working for her former employer wanted to purchase my domain name I would get a limited feed of possible purchases. All these things are possible without releasing my email out there to be harassed. Thank you.

Chuck Gomes: Thanks, Stephanie.

Stephanie Perrin: Oh and it also should enable the possibility that there could be a real time authentication that I actually own it through the registrant. That's the part where I anticipate Andrew is going to tell me that's impossible but I would like that, okay? Thanks.

Chuck Gomes: Thanks, Stephanie. And again, we're going to have to dig down into that once we get to deliberation on this one. Andrew, you're next.

Andrew Sullivan: This is Andrew Sullivan. So first of all in this particular case Stephanie does know how the Internet works. But that's not why I put my name in the queue. I wanted to go back to this idea, there was this analogy drawn between this registry system and other registries such as automobiles and real property. There is a small problem here in that the RDS we have today doesn't work like those; that is the, you know, if I go and buy a house I get the title search shows that the title is legitimate. I've got the whole chain all the way back in order to show that I had a legitimate, you know, that I'm buying from a legitimate owner who bought it from the legitimate owner all the way back so that, you know, you don't find that you've bought a house that actually somebody couldn't sell you.

We don't do that in the existing system and so I guess what I'm asking is whether this use case requires that, that you require in fact the history in the registry or in the registrar or something, in order to have this use case dealt with or whether the current registrant is good enough for the purposes of this because that makes a big difference, right? I mean, if what we're requiring is that registries come to have the entire history of a domain name then our next problem is to define what it means to have the history of a domain name because in the way these things work today the – what you get is the history of the domain name object and not the history of the domain name itself.

So that's actually an important difference that I think we're going to need to – we're going to need to make if we're going to draw that analogy and kind of stand on it. So that to me is something that isn't clear from this discussion so far. Thanks.

Chuck Gomes: Thanks, Andrew. And again, what several of the last speakers have illustrated for us when we actually started deliberating on this on whether it's a legitimate purpose for any sort of processing of data elements, we're going to have dig down further on all of these issues and decide. And in the case of history, you know, we may end up discussing whether or not new data elements that aren't in the current system should be there or not. I'm not advocating for any of that. Andrew, go ahead.

Andrew Sullivan: This is Andrew Sullivan again. So I agree with you that that's all stuff we might have to do but I guess what I'm trying to say is I now, after this discussion that just happened, I understand this topic less than I did when I walked into the room. And that makes me nervous. So I would like to understand whether this use case requires the history or it doesn't because that actually seems to me to be an important thing that we need to answer just in order to understand this use case. Thanks.

Chuck Gomes: So you think that alarms you; guess what it does to me? Since our goal was really to increase understanding. But actually I really do think that this has

been helpful to understand it. But I still would say we're going to have to dig down further on whether the use case really requires that or not and this isn't the time to do that right now.

So I'm going to switch directions now or switch topics and we're going to go next to the Drafting Team 2 and first we're going to cover domain name management so if we can switch the slide here to the domain name management one? I don't think we have to go back to the main slides. Okay, domain name management. And Susan, I believe you're the presenter on that one. We'll handle it the same way, let the presentation go, any input from drafting team members and we'll open it up then to the full audience to ask questions, again the objective being to increase our understanding of the proposed purpose, not to make any decisions whether it's legitimate for any sort of processing or not. Susan, go ahead.

Susan Kawaguchi: Thank you. Susan Kawaguchi for the record. So we had a working group agreement Number 48 and domain name management is a legitimate purpose for collecting some registration data based on the definition information collected to create a domain name registration enabling management of the domain name registration and ensuring that the domain registration records are under the control of the authorized party and that no unauthorized changes or transfers are made in the record.

And to fill that you'll...

((Crosstalk))

Chuck Gomes: And, Susan, I'm going to interrupt you just a second for the sake of those that don't know this. As you can see we've had at least 49 working group agreements. What does that mean? Well we realized a long time ago that if we try to get consensus on everything we decide at this point in time, eventually we'll have to get there before we make any final

recommendations, but if we try to do that this working group wouldn't take 10 years, it'd probably take 30. Okay?

So what we did – what we started doing is trying to reach what we call rough consensus, and we don't have a firm level for that but we're fairly rigid, it's usually 75% or more of working group members who participate before we will declare rough consensus. So any of the 49 working group agreements we've reached there's been a fairly strong level of support, no necessarily unanimous, in fact rarely unanimous, with regard to this. Eventually we'll have to come back to these and get a firmer level of consensus. So when we say a "working group agreement 48" that Susan just went over we mean the working group had pretty strong support for this particular agreement.

So you can see that domain name management is one of the two that I mentioned earlier that we've reached some tentative agreements on. And we call them tentative because eventually they have to be confirmed by going back to the stakeholder groups and the advisory committees and so forth to confirm that. And some of these may have to change as we decide on other things. So I wanted to make sure everybody understands.

And one of the ways we determine this we not only discuss it in working group meetings but we then follow it with a poll, not a vote, a poll to just get a sense of where working group members are. That allows not only for those in the meeting to confirm what we concluded as a tentative conclusion but also for those who weren't in the meeting so that they have a chance to provide input. So I just wanted to make sure they understand what we mean by working group agreement, it's all yours. I'm sorry for interrupting.

Susan Kawaguchi: No problem. Susan Kawaguchi for the record. So these are the all data elements that we agreed upon. Some of these, you know, to be collected for the purpose for domain name management, some of these are generated – is generated data like domain status and expiration and updated date. So the

first question, “Who associated with the domain name registration needs to be identified and/or contacted for each purpose,” I cannot speak this morning.

Basically and, I mean, you can review the document. But in managing a domain name you need to make sure that you always have control. So control and management equates to security. If you do not have control over cannot manage your domain name then anybody else can manage that for you which happens more frequently than you realize. So, you know, your site goes down, your content changes, it gets hijacked, the domain name could get hijacked. So as domain management responsibility you control what happens with that domain name.

And so you, you know, this may be if you're just you know, own a domain name as an individual you want to make sure that you always – that what you paid for you retain or as a corporation if you're a target for cyber hacking then – that you can defend that and that you have the security in place. So but there are certain specific tasks that, you know, like selection and creation of the domain name, the registrant is the individual or identity that's going to decide on that.

The registrar is going to create the registrant ID and then the configuration of DNS data and then monitoring maintenance of Whois status data, that's the registry and the registrar. So there's different players, different identities in the ecosystem that would maintain the management of the domain name. And so the – if you are a registrant, if you purchase or you register a domain name, you have a lot of different responsibility and that part of that is again the security and then the operational perspective that, you know, it's for the intended purposes that the registrant intended.

And then what might be – the third question, “What might be expected of that entity with regard to the domain name? Expectations include the ability to respond and act authoritatively and responsibly.” That doesn't necessarily mean somebody contacts, you know, the admin email address or the

registrant email address and that you have a duty to respond but as from a domain management that you have complete control, you have control of the account that it's in at the registrar, you have control of the domain name, and those – that account could be controlled completely separately from the registrant information.

In my experience working for corporations, which I don't do anymore, is you know, oftentimes my name was on the account but the domain name was registered to one the corporations I represented. So I had control of the account but I didn't have the control of the domain name to sell it; I could not authorize the sale of that domain name. Somebody else in the corporation who was identified could do that, I could help with the sale of the domain name or so there's a, you know, big disconnect between having – being the registrant and your responsibilities and controlling an account at a registrar.

So and then the last part of this is, "The entity should also have the ability to determine after the fact why changes to domain name data were allowed." And that's pretty critical in maintaining the security of a domain name. So that's it for my...

((Crosstalk))

Chuck Gomes: Thanks, Susan. Just before I open it up to drafting team members to add anything to what Susan just shared, let me let you know that those who are in Adobe, you have scroll capability yourselves to look at this particular deliverable that came from the drafting team and also...

((Crosstalk))

Chuck Gomes: I'm sorry, what? Oh they don't, okay.

((Crosstalk))

Chuck Gomes: Okay all right. I thought it looked like it was to me. So I guess you don't have scroll capability, my apologies. But these deliverables are available on the working group wiki if you want to go back and look at them or even go there now and look at them.

((Crosstalk))

Chuck Gomes: Okay. Okay and they were sent to the members mailing list. That doesn't help those of you who are not working group members but again it is available on the wiki. So let me turn it over to any other drafting team members on this particular purpose of domain name management to see if you want to add anything. Milton, go ahead.

Milton Mueller: Yes, Milton Mueller. Georgia Tech. I definitely view this as the critical purpose of Whois, probably the single most important one and the only one there's probably not going to be any debate about. But I want to go up to the very top level sentence with which you begin this and probably all the other so-called legitimate purposes. And my concern is with this as your formulation of the criteria, a legitimate purpose. I've been hearing that a lot.

I don't think that is the correct criterion and you probably know this because I've said it before but it seems to not have any effect. There are lots of legitimate purposes in the world. I guess you could say a legitimate purpose would be any use that's not illegal, immoral or fattening, right? You have to qualify that much more carefully as being a legitimate purpose for ICANN based on its mission. Can we agree that that is the guiding factor here? That ICANN has to collect, process and public – the criterion for ICANN...

((Crosstalk))

Chuck Gomes: Milton? Milton, I'm going to interrupt you, okay?

Milton Mueller: Why?

Chuck Gomes: I'm going to explain.

Milton Mueller: Okay.

Chuck Gomes: Okay? Our purpose in this exercise right now is to understand the proposed purposes, not to decide today whether they're legitimate or not. We're going to go there next. Now this particular one is where we have made some tentative decisions already, and you can see them in front of you.

((Crosstalk))

Chuck Gomes: So I want, today, I do not want us to get into debating whether these purposes are legitimate or not; we have to get there.

Milton Mueller: You're completely missing my point.

Chuck Gomes: Okay then go ahead.

Milton Mueller: My point is not to argue what is or is not a legitimate purpose; my point is to make it clearer what the criterion is that we will eventually be debating. By legitimate purpose, again, if you say anything that's not illegal, immoral or fattening, we're going to have a very difficult and wide-ranging debate about hundreds of different use cases. If you say legitimate purpose means what is authorized by ICANN's mission, then we will have a very clear and very limited discussion about what is the purpose of Whois. Can we agree then that the mission of ICANN should be the guiding criteria as to legitimacy? That's my question.

Chuck Gomes: Thank you, Milton. So he's not the first one on this issue to bring up both of the points he made with regard to mission and legitimacy, okay, and criterion. Criteria. We actually digressed for weeks on both of those items trying to establish criteria and trying to agree on ICANN's mission. We – it wasn't very

fruitful because – so we felt the same way you did, that it'd be very helpful to do that. We were unsuccessful, maybe because of my leadership as chair, who knows why, but at reaching any clear criteria that we could use and we were unsuccessful really at agreeing on ICANN's mission, okay?

Does that mean that those two things aren't important? Absolutely not. As a working group we had trouble making any progress there. So in the case of ICANN's mission, we basically agreed that, yes, ICANN's got to stay in its mission. How we worded that we had trouble. Some people said you can't go outside ICANN's mission; others said you have to – it has to be directly in ICANN's mission. We will come back there. We will deal with that again. So your points are well taken. We're fully aware of them. We literally spent weeks on each of those without very much progress. Go ahead.

Milton Mueller: Okay so when you said we couldn't agree on ICANN's mission, you meant we couldn't agree about how to apply ICANN's mission...

((Crosstalk))

Chuck Gomes: How to interpret ICANN's mission.

Milton Mueller: Okay...

((Crosstalk))

Chuck Gomes: I guess applies okay too.

Milton Mueller: The mission is there. The mission is written down very clearly and unless you can make a case that it pertains to the security, stability and interoperability of the DNS, it's not a legitimate purpose.

Chuck Gomes: Okay, as you well know, as well as I do, one of the big differences of opinion with regard to the RDS is different interpretations of what ICANN's mission

includes. Now I think everybody, raise your hand if you disagree with this, agrees that security and stability of the Internet is certainly part of ICANN's mission. So I don't think that's one of the controversial areas. But we have very, very different views within the working group and the community as a whole about interpreting ICANN's mission and then like you said as well, how to apply that. So we're going to have dig down into that more, but thank you because that brings up something that we spent literally weeks on in the working group on both of those things. Any other comments or questions on this one? Thomas, go ahead.

Thomas Rickert: I am Thomas Rickert. And just interrupt me straightaway should you have discussed this already. I think it's a great idea to discuss purposes and then do the legal exercise afterwards as you just described. You're now talking about purposes for ICANN yet, and I'm not going to mention the evil acronym starting with the G now, but when you go through that evil acronym exercise you can use as a legal basis for data processing not only a legitimate interest that the controller has but also that a third party has.

So I think, you know, when you're collecting all this and when you're thinking it through it may make sense to think it parallel in two tracks. One is what legitimate purposes could ICANN come up with that could constitute legitimate interests for law full data processing, but then also a legitimate interest that the contracted party might have. So when the contracted party processes data, registries or registrars, they can have their own legitimate interests but they can also use third party legitimate interests to justify their data processing. And a third party legitimate data processing could be an interest that ICANN has. Right?

So I think, you know, it may make sense for you just to think parallel in terms of who's interests are actually talking about and then do the balancing exercise later on whether each and any legitimate interest that you've listed in your exercise would actually be a good basis for lawful processing. Thank you so much and I hope that I didn't distract you too much.

Chuck Gomes: No, thank you, Thomas. That's appreciated. But let me – I do want to point this out, keep in mind this is the Next Generation RDS PDP Working Group, so what we need to come up with is requirements for the RDS related to processing of any RDS data and that's going to be from an ICANN perspective. When I say "ICANN" I mean ICANN the community, okay? So it's – and Thomas points this out, registrars themselves or registries, in some cases, may have reasons to – for some sort of processing of RDS data that is not in the RDS system that we're working on. And that's absolutely true and that's fine.

Stephanie, go ahead.

Stephanie Perrin: Thanks very much. Stephanie Perrin for the record. Normally I'm wildly in agreement with Thomas, but I'm not sure I am on this particular case. It seems to me, just to be blunt and to go back to Milton's example of anything fattening, what we've got here is a multistakeholder operation where the interests of any stakeholder group are considered to be more or less equivalent. So to use the fattening analogy, you've got the diabetic association and Krispy Kreme donuts and they're never going to reach a consensus opinion on whether or not their aims can be fulfilled and that the criterion of fattening should be in or out.

So what we've got here, I can see from Kathy's worried look that she didn't follow my analogy so I'll drop it right here. We're not getting anywhere consensus-wise because each stakeholder has their set of criteria. And if we trashed out those criteria then we would not have a situation where we're trying to approach the GDPR with five sets of criteria. And I have I think painfully tried to point that out although I think not as clearly, I never used the word "criteria" so we should have dragged you into the RDS earlier, Milton.

That's the problem and I don't see how you can drag all of those things into ICANN's mission. It would be, I'm lying, I'm going back to the fattening thing,

it would be like saying we want to live in a wonderful society where people are free to get fat if donuts are important to their life, you know? How are you going to get anywhere?

Chuck Gomes: And this is Chuck. And when we tried to dig down in criteria that's what I was telling Milton and all of you is that we had trouble because people have different criteria. And so thanks, Stephanie. Thomas, go ahead, follow up.

Thomas Rickert: Yes, and I'm – it saddens me that we do not seem to – no, joking, Stephanie, we're aligned most of the times. Just to clarify, you are completely right that there might be processing activities that the contracted parties might be doing for themselves, which don't have anything to do with the exercise that you're undergoing here. But I think there will be processing where the interests of the contracted party are congruent with certain things that are in ICANN's mission, or where all the contracted parties are aligned and where you can use that for community-wide consensus but it might be difficult to find that in ICANN's mission.

So I'm just advising you that when thinking this through you always have these two avenues, going through ICANN's legitimate purposes and make those a third party legitimate purpose for the contracted parties or using the contracted parties' own legitimate interests as a basis. And where these are community or industry-wide purposes these can be used for a consensus policy as well. That's just my five cents. But let's take this offline.

Chuck Gomes: Thanks, Thomas. Maxim, go ahead.

Maxim Alzoba: Maxim Alzoba. Just small clarification in simple language, actually the collection of personal data from a personal occurs only on reseller and registrar levels and consent and things like that are only on that level because the registries do not have direct relations with the registrants and it's quite important. Thanks.

Chuck Gomes: Thanks, Maxim. I skipped over Lisa, I apologize to her. It's her turn now.

Lisa Phifer: Thanks. Lisa Phifer for the record. So I'd like to bring this back to this particular purpose of domain name management. One of the things that we tried to do in this exercise was to identify the parties that are involved in each purpose without relying on some of the traditional labels of registrant and technical contact and administrative contact because we wanted to bring it up a level and really think about the parties involved.

And one of the things that we tried to do in some of the drafting teams probably more than others was to identify what the benefit was to those parties of allowing either identification or contact as part of the purpose. And I think it's understanding the benefit that would ultimately drive whether or not there's a legitimate interest. So I would like to go back to this purpose and ask maybe Susan, since you're speaking on behalf of this team, what's the benefit to the parties involved to be part of this domain name management identification and contact?

Susan Kawaguchi: Susan Kawaguchi for the record. The ultimate benefit, in my opinion, is the security and stability of the Internet as a whole but of running a business or commercial enterprise or even your own personal Website that without being able to manage and control your domain name registration or the one you're tasked to authorize to control, you – the security and stability goes away. And we see those actions happen all the time with domain names that are not managed in a – what I consider correct way.

I also want to point out that, you know, the ICANN Bylaws Section 4.6 tasks ICANN with, you know, the registration directory service review. And just to quote it really quick, "Subject to applicable laws, ICANN shall use commercially reasonable efforts to enforce its policies relating to registration directory services and shall work with supporting organizations and advisory committees to explore structural changes to improve accuracy and access to

generic top level domain registration as well as consider safeguards for protecting such data.”

So I mean, we're all here from these bylaws, have been tasked with this and how we do that could be interpreted. But it is there in the bylaws.

Chuck Gomes: Thanks, Susan. We have a remote or more than on remote input here.

Caitlin Tubergen: Thank you, Chuck. I have a comment from Steve Metalitz. And this is in response to Thomas's comment. “Plus one, Thomas. But third party legitimate interests are not limited to those of contracted parties.”

Chuck Gomes: Thanks, Steve. By the way, Steve's one of our active members in the working group and I want to thank all those are participating remotely whether they're members or not. So and by the way, this particular issue that Steve raised is one of them that we talked quite a bit about in – and sorry for this, I don't know if it was Drafting Team 5 or 6, I coordinated both of those so I get them mixed up, but we had quite a lot – and I'm looking at Farzaneh and she was an active participant in those discussions. So we'll hear a little bit more about that in one of the later drafting teams.

Hand up, Fabricio.

Fabricio Vayra: Thank you. Fabricio Vayra for the record. So we've heard a lot about, you know, keeping the ICANN mission at heart, security stability. And Thomas I think brought up a good point which is that we need to remember on whose behalf or what perspective we're speaking about. Because when we talk about security and stability and I see people chuckle when we say “the registrant” and then we tie security and stability but the individual registrant when they're managing their portfolio security and stability to them means that their domain doesn't get hijacked or they have ways to verify their domain or they have ways to check a record.

So there's the security and stability as we might see it as a whole of the DNS, and then there's security and stability of the people who make up the DNS. And those who make up the DNS if you asked them what security and stability means, it means being able to have a proper record of what your domain is and how to properly manage your domains. So I think that's very important to keep in mind and I really value what Thomas said about the perspective.

And that goes to legitimate purposes, interests and Chuck, to your point, why we spent multiple hours on what is the mission of ICANN because I think there are different ways of viewing what security and stability means, and I think we shouldn't lose sight of the individual registrant and their ability to manage their domains.

Chuck Gomes: Thanks, Fabricio. If there are no more comments or questions on this one, we're going to take a break, but before we do that, now notice if you – if you can scroll back up to the top of this one where it showed the two working group agreements, 48 and 49, the tentative agreements there, we have done some considerable deliberation on this one. And as you can see, we've had rough consensus at least that the domain elements you see under 49 there should be collected. Now that's not done yet, we won't be done until we do our initial report and even then it's not done until we get further feedback. But so we have made some progress on this one.

There's one more that we've made some progress that we'll cover later today and that's the technical issue resolution which is another one that we've reached some agreement on. Now we're still going to come back to domain name management and technical issue resolution to see if any further deliberation needs to be done and we may even start that today although it's not looking real good for that today based on how long it took to cover the first two.

So with that said, let's take a 20-minute break so let's come back here at about 10:35, is that – yes, about 10:35, try not to make it longer than that because we have a lot to cover and we'd really like to make good progress on that. Thank you, great discussion. I hope it's helped you, except for Andrew who got more confused, okay. But...

Andrew Sullivan: That's not new.

Chuck Gomes: Well it's the same for me, Andrew, so I'm not going to criticize you. So let's take a break and come back in 20 minutes. Thank you.

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