

**ICANN
Transcription ICANN Copenhagen
Next-Gen RDS PDP
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James: Okay. Thank you. Next step is another PDP that is the next-generation registration directory — RDF? Help me out, Chuck.

Registration Directory — oh, it's right there. Registration Directory Services PDP. And this is also a monster of a work effort involving a big chunk of the community. So, Chuck, as you make your way up here, he'll provide us an update.

Chuck Gomes: Good morning, everyone. So, I'm the Chair of the RDS PDP Working Group. That's an easier way to say it, yes. Just abbreviate. I have the same problem if I try to say the whole thing.

Before I actually get into the presentation, you know, because I've been in this community for such a long time, it's just not the same, not seeing (Glenn) here. At the same time, I know there's really good ICANN staff that's going to fill all the things that she did, but I couldn't help but notice. I was sitting down this morning. Where's (Glenn)? We all know, and so and we're all wishing her the best and thanking her for the great things she did.

Okay. Let me jump right into our presentation. And I'm comfortable, James, if you and the Council are comfortable, of being interrupted for questions as we go, or if you'd rather wait until the end, I can do it either way. So, I'll let...

James: Take them as we go?

(Chuck Gomes): Okay. So, feel free to raise your hand, speak up, whatever, and I'll be glad to respond. I'm going to go fairly quickly on the first few slides, because most of you have seen those before.

The timeline and major milestones are there. The Working Group, if you look at the orange balloon there, you'll see where the Working Group really was started, which is a little over a year ago. And the – what we're looking at – is, you know, our first initial report we'll talk about that a little bit later. We're going to do two initial reports. Which are just a little bit different. And that's just for Phase 1.

So, I'm not going to just go through the details on this slide. I think most of you — certainly, if anybody wants me to tell – discuss what this project is about, just indicate, and I'll be glad to do that. Otherwise, I'll move on to the next slide.

Okay? What are our current challenges and issues? We don't have any challenges in this Working Group. I do appreciate the laughter, because we all know this one is full of challenges. But you know, we've got a great group of people in the Working Group, and a lot of them. And a lot of new participants, which is really encouraging to see.

The biggest problem the new participants are having is even though we warned them at the beginning that this was going to take a while, they're starting to get frustrated because of how long it is taking. And so, that is one of the challenges we have, is burnout.

Now Phil, in the previous session indicated, you know, that I mean, they've gone 2-1/2 years already. And so, some of us have been around for a while. This isn't new to see these things drag on a while. But that's one of the challenges.

Right now — and of course we in the Phase 1 — Phase 1 is — and I think we have a slide on this later, but just real quickly, since I'm talking about phases now — Phase 1 is developing requirements for a possible Registration Directory Services System. Okay?

Phase 2 is development of the policy to meet those requirements, if we decide to go that route. And Phase 3 is implementation. So, we're just in Phase 1. And Phase 1 is going to take a while, just on its own.

What we've been doing for quite a few months now is focusing on three areas of our Charter. Users and Purposes, Data Elements and Privacy. And we'll be on those three areas for a little while longer before we can move on to other areas. And I'll show you more on that later.

One of the things that we've done over the last few months — and I'm on the second main bullet there on the slides — is we've reached some rough consensus on a variety of points. And I'm going to show you those in a little bit, unless you ask questions on those, if you'd like.

Now you can see those, and there's a link — when you come back to these slides, there's actually a link to that document. It goes into a lot more detail than what I'm going to show you.

So, I mention the challenges of burnout already, even though we've only been going a little over a year. For those that haven't been involved in the GNSO, that seems like a long time. And it is. It is a slow process.

The complexity of the issues — for any of you that were in our three-hour Working Group yesterday — a lot of the comments that were made from the audience and from the Working Group members themselves perfectly illustrate the complexity of what we're dealing with.

We had people yesterday that were — we had a representative from a law enforcement association eloquently expressing their needs and concerns, and then we had other people — as it's been the case with Whois for 12, 15 years — that are concerned about other issues that compete with those.

So, this is a very complex issue, and it won't get easier as we go. But that's why we're trying to come to some solutions that will, hopefully, help us to bridge the gaps there and to find some sort of balance — and that particular word was used several times in our Working Group meeting yesterday.

What we did – we started deliberating on possible requirements on those three areas that are up at the top there. And we realized, with input from the Working Group Members, that it might help us to really focus on some key concepts. And we narrowed our focus on those three areas to thin – what we call today, “thin” Whois data – to make it a little bit easier to start making some progress on those key concepts.

So, that's what we've been working on. And so, that's what we've been doing. I don't know how many months we've spent, but several focusing on that. Let's go to the next slide.

So, in this particular set of meetings, one of the things that we're very happy about is the cross-community session on Monday with the data commissioners from Europe.

That is not a Working Group session, but we have fed into that cross-community session, and the panel that's being operated there, a list of 19 questions that we hope this week, not necessarily in that session only, to get responses from the European Data Commissioners.

And the objective, from my point of view as Chair of this Working Group and our Leadership Team, is to find out – excuse me – to improve our understanding of the European Data Protection and Privacy requirements as much as possible, because we're starting to deliberate on data protection, privacy, how do we bridge the gap between that and other interests and so forth.

So, we want to have as strong an understanding as possible. And those questions are very critical for us to get more clarity on, and they're — and so, well, hopefully some of those will be asked in the cross-community session on Monday.

We have a follow-up meeting on Wednesday for the Working Group — and of course, everybody's welcome — in which we will try to answer questions that don't get addressed or that need follow-up from the cross-community session on Monday.

Now, we've introduced a method — and compliments to (Marika) on this, because it was her idea. And I think it's working pretty well, although it puts a lot of demands on the Working Group Members just to keep up to speed.

But when we come across the key concept that they're, you know, in a Working Group meeting — we meet weekly for 90 minutes. When we come across something that there appears to be at least rough consensus in a meeting, we will try to confirm that in the meeting, but then we will create a poll.

It's not voting. It's not formal assessment of where the Constituencies and Stakeholder Groups are on this. We'll get to that at some point down the road.

But we do a very short poll to confirm any conclusions that we seem to be agreeing on without major opposition. Doesn't mean without no opposition. And so we put that poll out for just a few days so that before our next weekly meeting, we're able to assess based on the results whether our conclusions were captured correctly from the previous meeting.

And so, we're doing two things by doing that. Number 1, we're confirming that we did word the conclusions correctly. And then, we also give opportunity for those that weren't in the meeting to participate in that. And then we'll review those at the next meeting.

So, in that process, then, we have come up with 19 rough consensus what I like to call "Interim conclusions of our Working Group" that will help us going forward. Let's go to the — and then — going to the next slide, or okay.

So, here we have the first set. There's a total of 19, so there's one more slide here. And what I'm going to do, like I said, there are 19 tentative conclusions that we have reached — what we call "rough consensus" on so far.

Note the heading of this slide — the parenthetical: Iterative Deliberation. We realize as a Working Group that as we go through this process, we're going to

have to back up and re-look at some things as we discover new things. And that's what we mean by an iterative process. So, none of these things are in concrete. They can all be changed.

But we're making progress towards reaching some consensus levels on these things. Now what I'm going to do with these; I'm not going to read them, okay? I'll just do them by category. You can see the first question there: "Should gTLD registration thin data elements?"

And by the way, we're using the definition of "thin data elements" that was used in the Whois Working Group a few years ago. And "Should those be accessible for any purpose, or only for specific purposes?"

You can see the conclusions we came to in the Working Group. If you have questions about any of those, be glad to entertain them, but I'm not going to go through them one-by-one.

The second category is: "For what specific legitimate (and that's in the eyes of the Member, okay?) purposes should gTLD Registration thin data elements be collected?"

And you can see we have a list of — it looks like about 10 tentative conclusions that we've made there. So, let me pause there. I said I'd entertain questions as we go. Anne? Go ahead.

Anne Aikman-Scalese: Thank you, Chuck, it's Anne Aikman-Scalese with (Louis Roka), (Ross Gerber), (Chris Stief), and I appreciate your taking a question in the middle of things.

Just curious; when we talk about legal actions, I know that in my practice, in terms of investigating issues for potential trademark infringement, there's a phase, you know, ahead of time, when you're looking not only at the name itself in terms of the URL.

But there's a research process to determine who that party is, where they stand in your market or not in your market, and, you know, that may result in researches the conclusion where I say to the client, "Don't bother, It's not, you know, not necessary."

So, when we talk about legal actions, I'd appreciate if the Working Group would take into account that there's a research phase that sometimes results in no legal action, but you need to make a recommendation to your client that is a non-litigious-type recommendation.

Chuck Gomes: Thank you, Anne. Appreciate that. Any other comments or questions on the list of tentative conclusions that are on the screen now?

James: You still have six more, you said?

Chuck Gomes: Hmm?

James: You still have six more?

Chuck Gomes: I know, I know. I'd rather have them in front of them while we're talking about them. Stephanie?

Stephanie Perrin: Thanks very much. Stephanie Perrin, for the record. I know you got quite a bit of discussion about these preliminary rough consensus conclusions yesterday, so I didn't bring this up yesterday.

I'm a little concerned, having been giving quite a bit of pushback on the particular one on the legal actions as a purpose for collection. I'll grant you there's a purpose for disclosure, but not collection, because I don't think ICANN is in the business of running a repository for legal action, as we discussed.

Have you thought about maybe including — I did talk quite a bit about footnotes yesterday. A footnote allowing for the, you know, what did they call it in international treaties where you take a derogation from a particular principle?

Because I don't want anyone to suggest that I didn't hold up the proceedings for hours and hours arguing about it at the time, because it will certainly come up as we put the pieces together, and I've been trying to think of an analogy for what's happening here.

And it's a bit like drug interaction, you know? Kills most of our seniors in emergency room appearances. A single drug is fine, but when you put five of them together, you have to decide which ones are going out.

And of course, in the history of Whois, usually it's privacy that's gone out. But I'm hoping that won't be the outcome of this in this particular PDP. But we have to understand that a single element might be okay, but when it's in interaction with the other ones, we're going to have to throw some out.

Thanks.

Chuck Gomes: Thank you, Stephanie. And of course, that's in large part, why we're doing this as an iterative process. And as you know, we have, in several instances,

used footnotes to make sure that things will be clear down the road after we're several months from now. And we will continue to do that.

You can see now that the next set of questions — again, this is just for thin data. We were hoping yesterday — we were hoping in the not-distant future to expand that into thick data, but we're still focusing on thin data to keep it simple, and not biting off too much at once.

So: Do existing details, the Registration Directory Services Policy sufficiently address compliance with applicable data protection, privacy and free speech laws within each jurisdiction?

Now, there's two questions with this — excuse me, two conclusions. And basically, the Working Group at least reached rough consensus that no, existing system doesn't comply.

And the main reason was that, for that, is that we begin to see — look at — some of the purpose requirements in the European Data Protection Privacy regulation, especially the one that's coming down the pike right now.

And so, we didn't spend a lot of time — and this was pointed out in our Working Group yesterday — talking about free speech, not that we're minimizing that, but the Working Group really did see a gap in existing system with regard to a purpose statement. So, guess what we've been working on for the last few weeks? Developing a purpose statement for an RDS. And so, that's happening.

And then the last set of questions: “What should the overarching purpose be of collecting, maintaining and providing access to gTLD registration thin data?”

And we have reached some conclusions, with regard to our purpose statement, although a couple of these are still being worked. We worked on them in our Working Session yesterday.

Now, we really only focused on collecting. We haven't gotten to the maintaining and providing access to gTLD thin registry data yet. Any questions here? Okay. Erika, please.

Erika Mann: Thank you so much. I don't have really a question, but I wonder why you haven't add something which would talk about a balance, what is typically in data protection laws mentioned as, said as "public interest."

Because what you typically have to do, you have to balance the public interest – whether the interests of the data privacy of the individual user. So, this is true for the European Union as well.

So, in this list on 14 — which, by the way, would address some of the difficulties we have and be (faith) — and you, in particular, in this group. So, in 14, I wonder if you wouldn't want to add this?

So, something like, "Perform tasks of public interest," which then covers law enforcement issues or related topics. Because it's missing here. I haven't seen it anywhere else.

Chuck Gomes. Yes, now, a couple of responses to that, and I should have introduced our team at the beginning. I apologize. I'll do that in just a second.

But we have actually looked at some of the exceptions to the requirements of European data protection and some of the language there. Now, and haven't

— as you noted — made it into any language here, but your input right now is very helpful in that regard. So, that I can — before I turn it over to anyone from our Leadership Team, to respond as well, let me introduce them.

Those that are here; I don't know if one of them is here. I don't see him in the audience, but most of them are at the table. So, (Lisa Pfeiffer) and (Marika Koenings) are at the table, and they are staff support, great staff support, and a new member, you can raise your hand, (Armer) has joined the staff support as well.

And then two of the Vice-Chairs are up here at the table, and you can raise your hand: Susan Kawaguchi and Michele Neylon. And then David Cake is the other member. David, are you out there? I don't think so.

But anyway, so we have a team. And if any of you would like to respond to Erika's comment and question, I certainly encourage you to do so. So, let me do it without belaboring – taking too much time.

Erika, it is still a work in progress, so your input will be taken, and we will do that.

Okay, let's go to the next slide. I know we're probably running out of time. I'm going – this is a lot of detail. That's our work plan for Phase 1. Let's go back there please. Just one second. Okay?

We're on Step 12, as you can see highlighted there, which is deliberation on fundamental requirements for the first 5 of 11 areas in our scope of work in the Charter: uses, purposes, data elements and privacy are the ones we're working on now. After that, we'll get into gated access and data accuracy.

All of this is designed to lead to, after covering those five areas, answering a fundamental question. And some of you will think you already know the answer to this, and I understand that. Is a new next-gen RDS needed, or can the existing Whois system be modified to satisfy fundamental requirements?

After we (cut) deliberate on those five areas, and develop requirements for those five areas, we then have to answer that question. And it's after that that we will do a public comment period and do our first initial report. Go ahead, James.

James: Thanks, Chuck. James speaking. And a question, because I remember the (sneaked) diagram from a couple of meetings ago.

There was a — and I'm not clear if it's part of, baked into your foundational question, or if it's something that happens outside of Phase 1 — but there was a question about a feasibility question, or whether or not there was a cost estimate of what something like this would cost.

If you, I guess, conditionally believed that a new system was needed to be built from the bottom up, from scratch, what would that take? What would it cost? And where would that all come from? And is that something that's happening in this PDP? Is that Phase 2? Is that something in between?

Chuck Gomes: Thanks, James. It's a great question. It will happen in all three phases. First of all, of the 11 elements of our Charter, you see 5 of them at the top there. There are 6 more, and I think the cost one is like 9, 10, or so – Number 9 or Number 10.

But it will be looked at in our requirements phase, as much as we can. It's hard to get too much done on that, and Stephanie is a good one, — she's been reminding us about the cost all the time, so you can thank Stephanie for that.

And until you know what the requirements are, and then what the policy is, you can't go too far. But absolutely. That's a very critical factor, but that's then the next six elements of our Charter. And I think those come up in the slides. Let's go ahead and go to the next slide.

This just – you can see the steps of 12. I'm not going to spend too much time on this. If you have questions about it, (I'll be happy). But you can see on the right there those abbreviations.

Of course the foundational question, I just talked about. There's some other general questions. And then you see the 11 elements. You can see cost down there – CS, the third one from the bottom, if you look at that list of things on the right there. So, underneath the fundamental question and other questions are 11 elements of our Charter that we have to cover.

The first five, though, lead us to our first initial report, after we answer that fundamental question. We will then open it up for public comment on our initial report, and then decide, okay, do we go on and cover the others? I mean, if the answer is no, we don't need a new system, we wouldn't have to go on to those. But most of us think we probably will. So, that's it.

Does that answer your question, James, is that good? Okay, let's go on to the next slide. Okay. All right. So, that covers it. Let me open it up for questions and – if there are any more.

James: Thanks. Thanks, Chuck. And if it wasn't clear from a few moments ago, this is a pretty hefty piece of heavy lifting work that you and the Group are doing, so please, accept our thanks to you, to the Leadership, and to everyone who's been involved in this effort.

We have some time for questions from the Council; questions from the floor. On the status of this PDP. I have one, but I'll hold for — so, timeline. What's your next major milestone – major deliverable – that you're expecting, and do you have an ETA for something like that?

Chuck Gomes: We knew that question would come up. Thanks, James. Chuck speaking again.

And we don't have a specific timeline for that first initial report. That's the first big deliverable, and then, as you can tell, we have a lot of deliberation on requirements on those five areas to go.

We're just touching the surface right now in thin data. We have to expand that into — and we've just been talking about collection of thin data. We're now ready to expand into access to thin data. Should that be publicly available, and so on?

Then, we have to expand it into thick data, as you would know, as a Registrar. It gets even touchier and more controversial. So, what's my best guess? I mean, we're hoping that we can make some pretty good progress before the next ICANN meeting in June. But no – don't expect the initial report to be ready by then.

A very optimistic goal would be to have the first initial report – starting to develop it, probably – in the fall meeting. But it's quite possible that this Phase will extend into 2018.

But again, there's so many variables, and every time I think we're really getting some momentum, we have to back up a little bit to make sure we have everybody onboard. And even then, you never get everybody onboard.
Stephanie?

James: Well, actually, we have a queue. Sorry.

Chuck Gomes: Oh, I'm sorry.

James: We'll go Donna, Paul, Stephanie.

Donna Austin: Thanks, Chuck. Donna Austin.

Obviously this is, you know, this is going to go on for some time, and hopefully, you'll be around to stay the course. But I just, I'm interested in, you know, your level of participation. So, you've been going for 12 months now? Is that correct? So, the level of participation has been consistent? Or have you had any drop-off during that time?

Chuck Gomes: Thanks, Donna. From my perspective, and again, others can jump in, but I think it's been pretty consistent. Now, we have well over 130 Members, and then, beyond that, you have another 100-plus observers. But the Members are the ones who are actively participating.

We track the balance of representation between the different groups: Constituencies, Stakeholder Groups, Advisory Committees, and so forth. And

that's been pretty good. There's some times when it drops off in a particular – in some groups. But we've typically had active people in most of the GNSO groups and the Advisory Committees.

It's pretty typical, in my opinion, in most Working Groups. You know, even though we have well over 130 Members, our meetings usually have in the 30s. Okay? And sometimes it will creep into the 40s. Sometimes, especially in our alternate time zone meetings, we'll get down in the 20s and so forth.

But it's pretty consistent, and there's certain groups that are more active than others. Always happens, right? And so, as we identify areas where there's weak participation and we think it's needed, we're tracking that so that we can push a little bit and try and get that. And I think Michele wanted to add something here.

Michele Neylon: Thanks. Michele, for the record. Yes, Donna. I mean the participation, overall, has been pretty good, but it kind of ebbs and flows. So, you'll see at times you'll have a larger number of people, and then it kind of drops off, and when it get exciting again, people come back.

I mean, this is a marathon, not a sprint. So, people kind of pacing themselves and, kind of, you know, making sure that resources are going to the various PDPs and things of that so that nobody gets overly burnt out apart from (POR-CHOFF). Makes sense.

I think also the fact that we're rotating it, so there's one meeting once a month – yes, once a month – which is at some very strange time of the day for me, but it's at a much more civilized time of day for people in Asia Pac. That seems to be helping to a degree, anyway.

James: Thanks. Next up is Paul, and then Stephanie, and then we'll probably close off here so we can move to the next topic.

Paul McGrady, Jr.: Paul McGrady, for the record. I don't have a standard question. I just have a question again about the timing. And this is not meant to be a criticism at all, because I know you guys are all working hard, and there's a lot of PDPs out there working hard.

I think this topic may come up around the table more than once this weekend, but would a goal end date be helpful to help the PDP prioritize and to not necessarily get bogged down into every subtopic? Or would a goal end date be in the way?

Chuck Gomes: Thanks, Paul. As you know, yourself, there are pros and cons. Goals can help you. One of the things that we're trying to be cautious is to not to set unrealistic expectations.

At the same time, like you say, it's helpful to have a target. In fact, at our Leadership meeting Friday night here, we said — that's why we kind of came up with let's shoot for making some significant progress by the next ICANN meeting, and then maybe by the fall meeting, starting to work on that draft initial report. So, we're trying that.

For those that were in the Working Group session yesterday, you know, there were complaints that "I can't keep up with this." Now, it is a lot of work. You can — it's not hard to visualize. So just about every week, we try to come to some rough consensus conclusions, and then do a poll, which we only a few days for, and so forth. So, it's a challenge just to keep up with the email list.

But your point's well taken. We've not set a firm deadline for the initial report, but we're targeting in the Working Group and in the Leadership Team, in particular, for the next two meetings to make some significant process.

James: So, we have three folks now in the queue, and I just want to emphasize that we're about 18 minutes overtime, and we're cutting into our one and only coffee break, with no coffee yet. So, I'm going to ask folks to please be brief. And so that's Stephanie, Keith and Erika.

Stephanie? Stephanie passes. Keith?

Keith Drazek: Thanks, James, and thanks, Chuck. Keith Drazek, for the transcript. Just wanted to note that in our Council discussions, we will be talking about the request for an updated legal memo from ICANN. And specifically, on questions of data privacy, the changing landscapes since the last ICANN memo – sorry, the ICANN advice from 2015, and obviously, this group would greatly benefit from an update to that previous memo. So, thanks.

Chuck Gomes: A very quick response. Yes. That will be very helpful.

James: Thanks, Keith. And something we'll talk about more on Wednesday. (Marika), quick response?

(Marika Koenings): Yes, this is (Marika). Just one thing I do want to point out. That memo is specifically focused on the transition from thin to thick. So, if there's anything, I think, that's needed, at our (SPDP) Working Group it would be good to identify what specific questions are expected to be addressed, because just an update may not do much for the Working Group.

James: Yes, and I think that's something we flagged for a discussion on Wednesday, as well. You know, what specifically we should ask that review to cover, and when is the best time, most helpful time for this effort and for the (thin and thick) effort.

Chuck Gomes: Just as a quick addition to what (Marika) said, though, is that in answering the questions with regard to the transition from thin to thick, it has to get into some of these data protection requirements and privacy things. So, it kind of will automatically benefit us there.

James: Now Stephanie, you're asking to be put back in the queue? So, we have Erika first. Erika, go ahead. And Erika is throwing it back to you. Stephanie, go ahead.

Stephanie Perrin: And my original comment — Stephanie Perrin, for the record — was that one of our problems with the whole PDP concept is the number of groups that are contingent upon it, and related. One of them being Thick.

And we talk about thick and thin data in our PDP, but we are not necessarily agreed that the data elements which we consider to be thin are indeed thin. And so, we're resting on the work of another committee.

And when we get to data elements, we have to reassess. On the question of the legal opinion with respect to thick and thin, same thing applies. We need an updated legal memo across the board — and just a word of warning: there's legal opinions and legal opinions. The one we get will probably be quite different than the one coming out of ICANN. Thanks.

James: Thanks, Stephanie. Erika?

Erika Mann: Thanks. I wonder if we have a simple overview. Doesn't matter if it's thick or thin, which you – about the – not just the category of the data and which shall be or can be stored, but about what, typically, what you do?

You look into the various classifications, like, are they related to data retention? Are they related to accessible data? Whatever kind of categories you want to use, and then what you would do, typically, you would match this against the various international or local laws which are relevant for this particular topic.

Have you done something like this? Do we have, from an outside Counsel, just such a simple overview about the existing landscape, with regard to such categories? Do you have this in your hand?

James: No. We do not. But you're right. It will have to happen. Now, much of that will probably be in the implementation phase, once we agree on the requirements. You disagree with that. Could you explain?

Erika Mann: I think you should have this now; not when you come to the end of the debate. But it's something you need to have in the beginning of the debate. I would personally would argue like this.

James: All right. We'll take that under consideration. We have been looking at it more as implementation, but thanks for your input.

Okay. Thank you, Chuck, and for everyone who's dedicated a big chunk of their lives to this bit of work.

Chuck Gomes: Thank you.

James: And I think we had a good discussion regarding the legal update memo, which is slated for Council meeting on Wednesday. I think that one of the new takeaways is to make sure that we're coordinating with the work of that group, so that's useful to the RDS effort.

So, with that, we'll conclude this session. We'll pause the recording and wait until we get our next session.

END