

**ICANN
Transcription
Next-Gen RDS PDP Working group
Wednesday, 21 June 2017 at 05:00 UTC.**

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Coordinator: The recordings have started. You may begin.

Michelle DeSmyter: Great. Thanks, (German). Well good morning, good afternoon and good evening to all and welcome to the Next Gen RDS PDP Working Group call on the 21st of June, 2017. In the interest of time, there will be no roll call. Attendance will be taken via the Adobe Connect room so if you're only on the audio bridge if you could please let yourself be known now? All right, hearing no names, I would also like to I would like to remind all participants to please state your name before speaking for transcription purposes and please keep your phones and microphones on mute when not speaking to avoid any background noise.

With this I'll hand it back over to Chuck Gomes.

Chuck Gomes: Thank you very much, Michelle. Welcome, everyone. And let me ask if there are any updates to statements of interest. Please raise your hand in Adobe if you have an update. Seeing no hands, let's move right ahead to the second item in the agenda which you see up in the top right corner of the Adobe screen right now.

And I'm going to turn it over to Herb Waye who is the ICANN ombudsman.
Herb, it's all yours.

Herb Waye: Good morning and thank you, Chuck. Herb Waye, the ombudsman, for the record. I want to thank you first of all, Chuck, for accepting my request to drop in and say hello this morning. I'm one of the lucky ones that's already on Johannesburg time so I'm pretty much past my jet lag phase, I'll be flying in tomorrow from Istanbul.

I just really wanted to take this opportunity to remind everybody that one of the key focuses I've taken on since becoming the ombuds last year is the expected standards of behavior that ICANN has implemented and applied for the entire community.

You probably all clicked through it – well I know you all clicked through it coming into the Adobe chat room but I would ask every one of you to, at some point, open that up and actually take a read through it because it's quite informative about groups and working together and it's always nice to have a reminder of the importance of respect and civility.

I've taken the kind of the extraordinary step of asking to join this group because, as I mentioned in the email, I'd gotten a few people contacting me about some online behavior. And but what I want to focus on is solutions and moving forward and not dwell on the past.

So I know how difficult it is and your group is by no means the only one that's experienced a little bit of difficult when you get a group of people together that, you know, all have different goals and agendas and interests and values. So it's something I'm looking forward to maybe getting together with as many of you as possible in Johannesburg or online to discuss ways to move forward, you know, in a much positive type of attitude.

You know, basically looking at things as the issues as the problem and not the people as the problem. And once we can focus you know, clearly on an issue and remove the personal aspect things, you know, can usually be worked on and worked together in a much smoother manner. So I know this is going to be a busy meeting.

We're rolling into Johannesburg in a couple of days so I don't want to take any more than a minute or two of your time, so I really just like to take this opportunity to throw out an invitation to anybody that wants to contact me either by email or to drop in. I'll be on the fourth floor in the convention center in Johannesburg, I'll have an office there. Drop me an email and we can set up a time for anybody to come in and have a chat about, you know, about this working group or ICANN in general.

And with that in mind, you know, I think that this working group and through this working group many of the others that I'm also in contact with we'll be able to put together a much more positive culture in their environment. So once again, I'm not going to hang around because I have to get over to the ICANN office here in Istanbul shortly so I'll let you get back to your work and once again, please anybody that's either in this working group or who reads through the minutes in a few days please don't hesitate to reach out.

Chuck, I don't know if you want to open up the floor to questions but I am available for a few more minutes if anybody does have any questions for me. Thank you.

Chuck Gomes: Thank you, Herb. I think that would be good. If anybody has a question please raise your hand an opportunity to ask it right now before Herb has to leave. Okay, not seeing any hands, we look forward...

Herb Wayne: You're an easy group.

Chuck Gomes: Yes, we look forward to seeing you in...

((Crosstalk))

Herb Wayne: It's the middle of the night over there, isn't it?

Chuck Gomes: Yes, we look forward to seeing you in Johannesburg and hope you'll be able to join us in our activities there. So have a good day, Herb, and we will continue in our agenda.

Herb Wayne: Thank you very much. Have a great day, everybody. Good-bye.

Chuck Gomes: All right, our third agenda item is to try and complete our deliberation on the minimum public data set, the new term we're using in lieu of the term we were using of thin data. And to cover that, we're going to go over the poll results and the – we're going to do that in a little different way. There's really two documents that you need to look at to review. The first one is the document that is up on the screen and has been on our wiki for a couple days, the results of the poll.

And you can see there are about 30 and it looks like we don't have scroll control yet so if we could give everybody scroll control I think that'd be – there we go – I got it. Okay, so you can see – I think there may have been one duplicate this time if I remember correctly, which means there are about 30 responses so we had a pretty good turnout compared to what we normally get.

And there's some new information given in the results. We didn't show the percentages this time that the poll tool provides because they were kind of hard to translate because of the way the questions were worded in a negative perspective. But you'll see if you look after the comments, like for example, on Question 2, right after the comments which would be – let me get it on my screen here too – so you'll see that for Question Number 2 there was really no disagreement with the purpose or the rationale for the domain name.

So we as a leadership team believe that we can declare a – at least a rough consensus at this point in our work with regard to the collection rationale and the publication rationale shown in the table and for domain name. Now let me remind everyone that that doesn't mean that these are the only purposes; we're not trying to be all inclusive on these, but these purposes there appears to be strong agreement that they are legitimate purposes so purposes and the rationale for those purposes.

So again, we may – we will likely discover other purposes in the future and there's probably no way we could ever write them all down. So I will pause to see if there are any questions or comments on this before we move to Question 3.

Okay, so what I'm going to do very quickly is go through all of the questions just to highlight a few things as we go through them so that everyone can see some key elements of the results and then we're going to move over to the redline document that Lisa kindly prepared. And she thoroughly went through the comments and identified places where a possible edit or a change was suggested. And she redlined those in the document that this – these purposes and rationales came from that was created by Andrew Sullivan quite a few weeks ago now.

And so just before we go to that redline document that Lisa prepared, let's scroll down. And you can scroll down on your own. But if you look at Question 3, and then you can see that there were six people who disagreed that the registrar data element should be collected for the list of purposes, three disagreed with the stated rationale for collecting the information and three disagreed with the stated rationale for publishing.

Then you'll notice – and this is true of all the remaining questions as well, that there are certain comments that highlighted in yellow so that's the particularly call your attention to those. And one reason for that is the items that are

highlighted often suggest an edit or a change and we're going to refer back to those in the redline document that we'll pull up on the screen next.

Notice then at the end of the comments, and there were 13 comments, that highlighted comments for post changes to the stated purposes and our rationale, so that explains what I was just trying to say in that there – the yellow ones are the comments that we're going to refer to in the redline document.

Going on to Question 4, and this has to do with the sponsoring registrar IANA ID data element, you can see up above the table there that – oh and I forgot, you know, I skipped on Question 3, and I apologize for that. But if we go – skip back to Question 3 you'll see that 19% disagreed meaning if we assume that those who didn't disagree probably agreed with the rationale and the purpose for the data element, that leaves about 81%, which is still pretty strong support.

I will give an opportunity for anybody who submitted comments or even if you didn't comment after I do this quick overview and when we're looking at the redline so bear with me on that and I'll try and go through this quickly.

Going back to Question 4, you can see that 13% disagreed in some manner so that leaves about 87%, an even stronger difference, again, assuming that if you didn't disagree you probably agreed, although that's not a perfect assumption, but it's probably not too unreasonable either. Again, you'll see yellow highlighted comments.

And then going to Question 5, we had about 19% disagreement across the three areas, again, leaving 81% who did not disagree. Going to Question 6, 16% disagreement leaving a balance of 84%, and again several highlighted boxes. Question 7, again, 13% disagreement, 87% are assumed to agree. And then last of all, Question 8, we had the largest disagreement there, it was

about 23% across the three questions. And that leaving 77% assumed to agree, which is still over 3/4, which is really not too bad.

Now what we're going to do now – and in fact, let me pause to see if anybody has any questions, before we switch over to the redline document, does – are there any questions or comments that anyone would like to share right now about any of the questions about any of the results or the reporting of the results?

Is Bennie the only one having bad sound or are more people having trouble hearing? No – you're not hearing – Alex is not hearing me. Okay. If you can hear me would you put a green checkmark in Adobe? Okay, Michele can hear me. Is he the only one? Okay, and Marc. So several people are hearing so not just talking to myself.

If you can't hear me, put a red checkmark in Adobe – red X in Adobe.

Michelle DeSmyter: Chuck, this is Michelle. It seems that we might have lost an Adobe – audio in Adobe so it'll be just a moment, okay? One moment.

Chuck Gomes: Okay.

Michelle DeSmyter: Thank you.

Chuck Gomes: So several people aren't able to hear me. Okay, are you listening – let me start with Alex, Alex, are you – oh you can't hear me so there's no use – I'm sorry, that's not going to work. Let me type something in the chat here.

Michelle DeSmyter: This is Michelle. Please stand by, we're reconnecting. It'll be just a moment. I apologize, Chuck. Okay, Chuck, seems like I think we are good to go.

Chuck Gomes: Okay. Thanks, Michelle. Richard, can – if you can hear me now just say yes. It looks like the Xs are going away so I'm going to take that to mean people that are listening in Adobe can now hear. So sorry about that. Am I correct that all of you missed Herb's comments? Oh okay so – okay. All right.

All right well let's move forward. I apologize – what I did, for those who couldn't hear me, I quickly went through the results document and noted in all eight or seven questions really, Questions 2-8, that the lowest – the highest amount of disagreement across the three items for each one was 23%, which means – leaves a balance of about 77%; all the rest were at 81% or higher with of course Question 2 on domain name nobody disagreeing.

And then I also pointed out that the comments that are highlighted in yellow are comments for which Lisa took the comments and turned them into a possible edit to one of the rationales, the rationale for collection or the rationale for publishing.

So we're going to now move to the redline document. And again, I thank Lisa for the time she spent translating the comments into possible edits that we're going to now review, kind of in bulk but if anybody wants to talk about any specific ones we will certainly do that. So if we can bring up the redline document now I would appreciate that.

Okay thank you very much. Chuck speaking again. And keep in mind, this is the text that Andrew merged or created and that – and it also contains the EWG report purposes. So if you scroll down there are several things before that. But you get to a table and in that table you will see the four columns, the first column being the data elements, okay, starting with the domain name. And then it will show EWG purposes, those are purposes that were identified for a domain name for example for – so they suggested these were purposes for a domain name. And the collection rationale is in the third column, a publication rationale is in the last column, the fourth column.

Now what Lisa did is she color-coded in the data element column, color-coded depending on who the commenter was. And so you can see for domain name the changes were proposed by commenter Number 1. And if you go back, if you have access, you can see who commenter Number 1 was on the results page. So just to – so that was for Question 2.

And commenter Number 1, was Steve Metalitz, okay, SM, okay so initials. So you can find those things. And you can see there, I'll use this one, I will go through this much detail with everyone, but you can see that Steve suggests that a couple edits in both rationale columns, fairly minor edits I think, but those are highlighted in blue in response to what Steve suggested. So what I'm going to do, and it you should have received this quite a few hours ago and I ask, if possible, for people to look at the redline edits in advance. If you weren't able to I understand because depending on the time of day or night when you got it it may not have been possible.

What I'm going to ask you a little bit if you look through the second column, EWG purposes, you will see quite a few redlines in other words there were commenters that suggested we remove the purpose and then there were also edits that were proposed in the two rationale columns. And that goes all the way through like that.

And what I'm going to do, and if we need to break it down in more detail we will do so but let's try this first because it will be quicker if it works, we're going to look at the EWG purpose column along with a couple deletions that were suggested in the publication rationale column.

And first of all I like to give opportunity for anyone who was on the call to explain why you think any of the EWG purposes should be removed. Is there anyone that would like to argue in favor of reducing any of the EWG purposes in the – for any of the data elements? And of course all of you can read the comments of people that suggested that.

Jim Galvin, go ahead.

Jim Galvin: Thank you, Chuck. Jim Galvin for the record. I guess I'm just going to say what I have said before in these discussions. I'm a little bit concerned about listing, you know, purposes, as more than just an example of uses. I guess I'm waiting for the next step that we are going to get to eventually when we start, you know, thinking about policy considerations and such. I mean, these are just the requirements. But I'm concerned that we won't ever list them all and won't ever have them all there so I'm wondering why we list a bunch at all for other than example purposes.

And they don't appear to be presented here as examples and that concerns me. So it is just an observation more than a request to take action at the moment. Depending on the fact that all of this is going to make a good deal more sense somewhere along the way. Thank you.

Chuck Gomes: Thank you, Jim. And like we said before, this is not intended to be an all-inclusive list. These happen to be – like the Board suggested, we started with the EWG report, and this was a logical place to start. If for some reason we think we need to change that list later on we still can, but at least I hope everyone understands this is not intended to be all possible purposes, okay? Anybody else want to comment?

Is there – for those on this call, and that's all we can judge on this call, for those on this call is there anybody on the call who would agree with the deleting any of the purposes? In other words, you think they are not a valid purpose that the EWG proposed for any of the particular data elements. If you'd raise your hand and explain why you think that that would be helpful.

Stephanie, it's not going to work to redo the poll but you're certainly welcome to comment now. Go ahead.

Stephanie Perrin: Yes, hi. Stephanie Perrin for the record. I'm having quite a hard time reading this and I'm really sorry, I thought I had done the poll. I don't know what happened, maybe I didn't – is it possible to not save something? But anyway, some of these purposes are not purposes for collection and I think the easiest thing that I can do is annotate the whole thing in and send it in in the list because I – well I can't scroll through and do them all at this time. But I'd like to register that. Yes, I do put my hand up and say some of them are not okay. Thanks.

Chuck Gomes: Okay. Can you give us an example of one please?

Stephanie Perrin: Well, criminal investigation, as Rob says in the chat, that's an activity and you might release data legitimately but it's not collected for the purposes of criminal investigation. That is not the purpose of ICANN and not the purpose of registration data. That is the purpose of the collecting entity namely the law enforcement organization.

So we're mixing – we're conflating the purposes of the people who want to use the data i.e. the use cases, with the purposes of data collection use and disclosure in the Whois. That's what I'm driving at. I had the same argument when we did the EWG.

Chuck Gomes: So would you say, Stephanie that...

((Crosstalk))

Chuck Gomes: Would you say that if a particular stakeholder group has a usage that they have of something that's satisfying that need, assuming it's not a criminal or illegal need, is not a legitimate purpose? That's what I seem to be hearing you say.

Stephanie Perrin: Their activity, I'm not saying their activity is not legitimate. It is not a legitimate purpose for ICANN to mandate that collection, use and disclosure of personal information.

Chuck Gomes: Why not?

Stephanie Perrin: Because...

((Crosstalk))

Chuck Gomes: We establish a requirement – I'm not saying we are going to do this but if we as a policy development body establish a requirement to meet the needs of law enforcement, to use your example, within legal jurisdictions and requirements, why is ICANN as a policy development body, so establishing a policy that would require that, how is that not ICANN's mission?

Stephanie Perrin: ICANN's mission is not to facilitate law enforcement, just as practically every Western democracy has been fighting back and forth about how we get access to telephone record data and banking data, ICANN is managing domain registration data. And there are some legitimate...

((Crosstalk))

Chuck Gomes: ...what we're talking about.

Stephanie Perrin: Sure. But ICANN is not in the business of creating a data repository for the convenience of law enforcement. And you may recall that (Kanatachi) said that and so did Buttarelli. And we have letters from the data protection guys over many years thing that. The moment you decide that ICANN's purpose is to help out the law enforcement by collecting data for them, that is not required for registration, that is not required to run the Internet or to make a domain name resolve, then you are actually –your purpose is to facilitate law enforcement. That's not ICANN's role.

Chuck Gomes: Okay. Thank you. David, you're up.

David Cake: Yes, I just wanted to, I mean, what Stephanie is essentially talking about here is, as I understand, is the difference between the collection and access. So law enforcement, generally speaking, will be a legitimate purpose – legitimate reason to access data that you already have. But as she says, ICANN has no mandate to collect data that is purely used for law enforcement. ICANN's mandate is to run the Domain Name System.

And similarly, research is another good example. Like there's any number of questions researchers might want to ask. You know, researchers might want to know, you know, all sorts of odd questions about, for example, you know, how your use of domain name relates to your, you know, television watching habits or something. And there's a big difference between mandating collection as a legitimate use and mandating access to existing data as a legitimate use.

Chuck Gomes: Thank you, David. And...

David Cake: That's really the core of the question here. We can't just go this is – we – it would be handy for someone to have this data, and declare that a legitimate purpose, our – ICANN's purpose is running the Domain Name System. It is not unconnected to that. Well, there's maybe perfectly good reasons to allow access to the data once we already have it but that's not a mandate for collection.

Chuck Gomes: Thanks, David. And by the way, as you can tell like I often do, I'm playing devil's advocate to try and further the discussion. I like the way Rob said it in the chat, it's not a purpose of collecting the data, it's a potential usage of the collected data. So if I'm understanding correctly, then some of these purposes are not – you would not accept as purposes for collection but if we

have the data, the – they may be purposes for making it publicly available.
Did I word that correctly?

Stephanie, go ahead.

Stephanie Perrin: Sorry, Chuck, that was an old hand. But yes, that's – it doesn't have to be stated as a purpose because it's not ICANN's purpose. You will disclose, when asked, under proper authority, if you're going to make a directory service available as a minimum data set, to the whole world, then it has to be very tightly linked to your original purpose. I would say to the purpose of, you know, obviously the minimum data set, the purpose of disclosing that is a technical one; that is ICANN's role. And that's why in previous Whois fights we've fought about how broad that original purpose statement would be, notably back in the Taskforce 2 days. So that's an important distinction there. Thanks. And I'll be quiet now.

Chuck Gomes: No, you don't need to be quiet. This is Chuck. That's okay, this is a very important discussion because we want to get this as close to what right is as possible as long as we can agree on that or come close to agreeing. So is one of our problems the way the table is structured, because we have this EW purposes, and Lisa maybe – Lisa or let's see, who else, there are probably several of you, Michele, Rod, Stephanie, all of you were – and maybe more, I just did a quick skim of the people on the call.

When the EWG listed these purposes as possible purposes, were they doing that to say that their purposes for collection of the data or purposes for possibly publicizing the data? Michele, go ahead.

Michele Neylon: Thanks, Chuck. Michele for the record. Yes, your question is an important one. As Lisa is putting in the chat, EWG did not differentiate between purposes for collection and access; what we were looking at was uses of data. So for example, to give you two kind of crazy examples, law enforcement accessing data in part of an investigation, assuming that they're

following proper processes on their side, that's perfectly legitimate not a problem.

Spammer wanting to scrape Whois data in order to sell you pills to a large various parts of your anatomy, we know that they do that but we didn't consider that to be a permissible purpose or a, quote unquote, good use or whatever. So the thing is we weren't – the approach that we took to a lot of this was what are people doing with data? Why are people doing things with data? Is what they're doing legitimate or illegitimate? We weren't looking at it in terms of when you are putting together a set of rules around the collection and potential publication of data, you know, what are these ground rules?

So, I mean, the thing I think that Stephanie and a couple of the others are saying is nobody is suggesting that law enforcement access to this data is problematic, but the data is not being collected, stored, retained or anything solely for the purpose of facilitating some kind of law enforcement access because that would be crazy. I mean, I just don't know where the hell that would end up. So there's no issue with law enforcement accessing it, it's just down to you know, a per data privacy purposes and all that, then no, no, we wouldn't see that as a purpose. Thanks. I don't know if that helps.

Chuck Gomes: I think it does. I think I'm starting to get it. We'll find out. But more importantly, we all need to get it okay. And I think that a lot of people have contributed to the understanding including in the chat. So if we were ,for the moment, on this table to delete the – ignore, let's say ignore, not delete, ignore the collection rationale column, and just talk about purposes for publication, in other words, for access, would that change the comfort level on this? We'll come back to the collection piece in a little bit. Stephanie, go ahead.

Stephanie Perrin: Stephanie Perrin for the record. Access and publication are different things. When I'm talking about law enforcement access, I'm talking about with the appropriate legal authority going to a secondary tier, not fishing the data they're looking for out of a public director. Publishing as a much higher

threshold because you're not making it a distinction of the purpose of access and whether the people are legitimate. Thanks.

((Crosstalk))

Chuck Gomes: So you would prefer I use the word “access” instead of publishing? And are you assuming that...

((Crosstalk))

Chuck Gomes: ...publishing means public?

Stephanie Perrin: Yes.

Chuck Gomes: Okay. I mean, just so we're on the same definition. That's fine. So I certainly was not assuming that publishing meant public, it could be publish to a restricted set of individuals. But that's fine. I won't use the word “publishing.” So let me rephrase my question, if we change that last column to access rationale, and for the moment ignore collection rationale column, do you have any problems with the EWG purposes for that? Anybody?

Now, keep in mind, we'll come back to the ones that are suggested being deleted by some comments, but okay go ahead, Alex.

Alex Deacon: Thank you, Chuck. This is Alex. Yes so I want to give this a shot. So I think as Lisa just mentioned in the chat, you know, we've already agreed that all of these data elements are part of minimum public data set, I believe we have at least. I think we've – at least it's my impression that the purpose for this minimum public data set is mostly that first, you know, the purpose, the domain name control.

So assuming that's the case, we have a purpose for collection. And then it sounds like we still have some work to do to determine the purposes for

publication and then I suppose also for access, I don't know, this is where I guess I need some help here. But if we could at least agree that, you know, the data elements are part of the minimum public data set, and they all have at least one EWG purpose for collection, the domain name control, then I think we could put that kind of behind us and move on to talk more about the publication and the – sorry, the publication and the access rationale if we need to do that.

Chuck Gomes: Thanks, Alex.

Alex Deacon: That's kind of how I see. Whether others agree, I don't know, but that – if we could at least come to some agreement there I think we'd move forward. Thanks.

Chuck Gomes: Thanks, Alex. And this is Chuck. And I'm going to pursue that a little bit further. And in fact I want to come back to Jim Galvin, Jim, if you don't mind, because Jim is the one that was saying we have too many, you know, why list all these things. Jim, would the domain name control be sufficient in your mind, I'm just asking for your opinion, okay, for collection, not listing any other purposes for collection?

Jim Galvin: Thanks, Chuck. Jim for the record. And yes, I agree with you.

Chuck Gomes: Okay. And you're agreeing with others, I'm just kind of taking what others have said. So – and I mean, it may be that we have identified, in our dialogue here, our discussion, a possible way forward to get this wrapped up. And that is that we – does everybody on this call agree that the purpose for the – this minimum data set that we're talking about, is domain name – for collection of this data set is domain name control? Is there anybody on this call that disagrees with that? Put a red X in the – and I like the fact – put a green X if you support that, a red X if you don't.

Does that mean that most of you aren't sure? If so, I'd appreciate it if you'd ask some questions. And I'm catching some of the chat, but I'll ask the vice chairs and staff to help me if you see something that needs to be pointed out. Okay so we're seeing several people supporting that. I'm not seeing anybody disagreeing with that. And I realize some of you that haven't said, because you're maybe still thinking it through, so let me ask this, would it be a fair statement – okay, let me stop. Stephanie, go ahead. Keep your marks there, please.

Stephanie Perrin: Stephanie Perrin. My problem is are we talking legal control or technical control? And I realize we're still talking these thin data elements; I'm just being nerdy.

Chuck Gomes: Why does it matter?

Stephanie Perrin: Because technical control is much closer to ICANN's mandate than legal control. Legal control gets into a whole lot of other potential elements and so that's why I find the word "control" a little open ended. Technical management would make (unintelligible) or technical control.

Chuck Gomes: So – but enforcing contracts is legal control, right?

Stephanie Perrin: Yes. But if you're going to start introducing terms like "legal control" then – or control – then you open up various cans of worms such as – and I'm talking down the road, not with the thin data elements ,but you see once we've accepted the word "control" with the thin data elements, it will bleed on into the other data elements.

Chuck Gomes: Well, we could be more specific when we get to the other data elements. That's manageable.

Stephanie Perrin: If I can – well, we could. But in the meantime, we've got folks who want to come to ICANN and ask for criminal record checks before people have

domain names, you know, so that we can fight child pornography; that's not within the ICANN's mandate. But we're dealing with that kind of push. I'm responding to Rob's question. Yes sure, you have your legal right to your domain name, but control is too broad a word; it'll open up to all these other possible uses. Thanks.

Chuck Gomes: Is it really going to help us to get that fine right now in terms of the word "control"? If so, then I want you to tell me a word that works better because domain name control doesn't just refer to technical control. And we can spend three or four months coming up with a better term. If we do that, then, you know, we'll all be gone before this is ever resolved. So if you have a better alternative than domain name control, please suggest it, otherwise we will accept it for now with the always understanding that we can fix it if we discover a better way later.

But I don't want to spend the rest of this meeting debating whether domain name control is the best term or not. Probably isn't, but until we come up with a better one let's use it.

So what I'm going to suggest is that we – because there's no objections, except for the fact that – and we can note that, that the term "domain name control" was questioned as the best term and that's a legitimate comment. It probably isn't. But I'm going to suggest that we have a tentative conclusion along this line, and I'm sure we can word it better and we can work on that even after this call, if somebody has a suggestion that's fine.

But the tentative conclusion for the people on this call that we would test in a poll with everyone, with all members, is that the purpose of collecting the minimum public data elements is domain name control. And we can put a footnote with that, that one member questioned whether that's the best term, and that's a legitimate question. I'm not demeaning that. I just – if we just – not going to take the time right now to fix it unless somebody has the magical solution.

So is – anybody object to that as a tentative conclusion? And we'll clean it up.
Lisa, go ahead.

Lisa Phifer: Lisa Phifer for the record. Chuck, I'm a little confused in that we already have a working group agreement that domain name control is a legitimate purpose for minimum public data set collection. So don't we already have that agreement?

Chuck Gomes: I guess we're – that's a great question, Lisa. I guess what I'm trying to deal with is this table. We have all these collection rationales for all of these different purpose, you know, and really maybe what we need to do is just reemphasize that point and take the collection rationale column out of this table. Does that work? You're right, that we've already agreed to that.

Lisa Phifer: Well I think the – Lisa Phifer again. I think that it was the collection rationale and publication rationale that was actually the new grounds being covered here when Andrew suggested this approach, which was that saying something like domain name control was too high level and that we needed to drill down on an element by element basis to give the rationale for collecting that specific data element and then the rationale for why it was necessary to make it publicly available. So I kind of think we're – we may be...

((Crosstalk))

Chuck Gomes: ...going to access.

Lisa Phifer: Right. But I think we may be focusing on the wrong column in this table in that it was really about the rationale columns and not about the purpose column.

Chuck Gomes: Okay. That makes sense to me. Neil, go ahead.

Neil Schwartzman: Thanks. So I'll apologize in advance for any noisy pugs that are in the background. The collection rationale seems more like a internal annotation that certainly I can't see at this point, any reason to publish it publicly. In fact, it seems more like a administrative note from this group and I don't understand why we would tell any person or entity accessing Whois data what our rationale was for collecting it. And if somebody can elucidate me on that? Otherwise, I tend to fall into the redact it camp.

I'm not saying lose it, Stephanie, I'm saying that it certainly would not appear to me to be something that we would publish. And would it remain, I mean, is that not a standard kind of thing? It's like, okay, we're collecting name servers, that would remain the same across every name server that's ever collected, is it not?

Chuck Gomes: And of course we can – this is Chuck, Neil, and the – we can decide as a policy development working group that, you know, we could say that's not a requirement to collect that. So, I mean, that's kind of open. We know that it has been and there's probably a pretty good chance it still will be if we just look forward a little bit. But the point is is that it's probably helpful – and I was looking at what Rob said again, "For each element it's good to have the why collect and then the publication reason and then the access level." Certainly a way to look at it.

Neil Schwartzman: But, yet, if I may? But that's not something a registrant is going to decide, it's a policy that we're deciding that seems to be much more global to every registration that ever happens henceforth and therefore, I mean, that's kind of a statement internal to ICANN eventually something that's accepted by the registrars. But that's a policy document that I don't think anyone is ever going to see. Talking about the minimum, so the minimum is function of the Internet. Okay? That happens for every domain ever. Do we need to publish that beside each registration or is that a – just a kind of de facto standard that exists within registration mechanism or protocol?

Chuck Gomes: Yes, I don't know how to respond to what you're saying. I think that we certainly don't need to do it for every registration. We're trying to do it at a high level here. And I'm intrigued by what Lisa suggested there. I think she may be right that we're getting hung up on the purpose column and maybe what we should be focusing on is what's the collection rationale for domain name, what's the publication rationale for domain name, what's the collection rationale for registrar, what's the publication rationale for registrar, etcetera, and not tie it so closely to the purposes.

I don't know. I mean, is that what you're getting at, Lisa?

Lisa Phifer: This is Lisa Phifer. I believe that that was what Andrew intended when he proposed this approach.

Chuck Gomes: Okay. Would it be helpful for us – and by the way, you can take your checkmarks out now. Do those on this call think it would be helpful and constructive in terms of where we need to go, to redo the poll without the purposes column and we would word it in a positive way, not a negative way, would that get us somewhere? Would that be helpful or constructive? I'm not sure. I'd really like some of your opinions in that regard.

And, Tim, I mean, kind of that's what we're suggesting right now. Now keep in mind, purposes are part of our – we have to look at purposes, it's part of our charter, okay? But maybe this isn't the place to do that.

Okay, Patrick, is that a new checkmark or an old one? Just leave it there if it's new, that's fine. What do you think? I mean, how can we move forward on this data? We're trying to make progress. If you think it'd be useful to redo the poll in a positive sense, and take out the purpose column, put a green checkmark in the thing; put a red checkmark if you don't. In the meantime we'll listen to Alex.

Alex Deacon: Thanks, Chuck. It's Alex. I guess I'm confused now, is there disagreement I mean, are we all kind of in agreement here with what has been done based on the past poll? It's not clear to me we do the poll, I suppose we could (unintelligible) of time but...

((Crosstalk))

Chuck Gomes: Alex, it's really hard to understand you. I don't know if – why...

Alex Deacon: Sorry. Is that better?

Chuck Gomes: Not too much, no.

Alex Deacon: Let me try...

Chuck Gomes: Let me put myself on mute; maybe it's my phone line. Go ahead, try it again. Go ahead, Alex. You appear to be on mute. Okay, not sure what's – oh try it now.

Alex Deacon: All right, can you hear me now?

Chuck Gomes: I'm on mute. So I can't answer you very well without going off mute again. Yes, it's still a little fuzzy but go ahead and try it.

Alex Deacon: Yes, I guess I'm just saying that I'm not seeing a lot of disagreement here. And maybe there's more confusion than the past, but I think where we stand now there's pretty much agreement on this table. I don't think it's necessary to redo the poll. But moving forward we should focus on the, you know, the rationale columns and not so much the purposes columns. Thanks.

Chuck Gomes: Okay, got that. Thanks, Alex. This is Chuck. So you don't think it would be any – we need to do the poll again, you think there's a strong level of support

on the poll, at least for rough consensus. What do we do with the purposes that are in the table? And not just asking Alex, I'm asking anybody.

And Rob, I'm not sure that everyone on the call agrees that EWG purposes are possible collection rationales as that, I think, what Stephanie was disagreeing with but Stephanie, please correct me if – I don't want to misrepresent you. Go ahead, Stephanie.

Stephanie Perrin: Yes, it's Stephanie. I do think that we should try to wipe the slate and refrain from referring to the EWG rationale because as Lisa says, the purposes were more to list possible access rationales, I would call them use cases, for the data as I said earlier in the meeting. So I do think that it's very, very hard for me to keep focusing on relax, this is only the thin data; relax, this is only making it all publicly available when we keep referring back to the EWG material.

So that's, I think, obfuscates the matter and it certainly makes it hard for me. And I think when we unleash this on an unsuspecting world we'll have the same problem. So we might want to try and not quote the EWG quite so much. Thanks.

Chuck Gomes: All we're saying is that the source of those purposes from the EWG so I see no problem with identifying a source. We can disagree with what they suggest but all we're saying is it came from the EWG. Let's not make more out of that than it is. We can add to it, we can delete, we can do whatever. Jim Galvin, go ahead.

Jim Galvin: Thank you, Chuck. Jim Galvin for the record. I want to agree with Stephanie. Let me try and reframe it though in the following way. It occurs to me that we should focus on our work product, you know, we're trying to make a distinction here between why data is collected, why data is published and we're sort of listing all of that information. I do believe that we have come to a rough consensus that with respect to thin data it is going to be publicly

available but nonetheless, you know, we're going to go through this publication, you know, rationale and talk about the different reasons why that element is still important.

And the same way with collection, I think we had a very very rough consensus on this call at least, you asked the question earlier, you know, is domain name control, you know, certainly a collection rationale for all of these elements that are here. And I think it's arguably a publication rationale we're trying to expand that. So coming back around, I think focusing on our work product is what's important.

I think the concern I have with the EWG purposes is we've got a variety of inputs that we've been using for coming to our own conclusions for our work product. Why are we highlighting this particular input right here at this point? You know, it just – it really does add confusion. You know, I mean, there are SSAC documents which talk about this thing also, so why isn't that a separate column kind of thing is something which is going through my mind. So I think we're moving it just because it's one input among many and let's focus on our work product is what's important, seems to make sense to me now. Thanks.

Chuck Gomes: Thanks, Jim. And I think, you know, my understanding is we're focusing on purposes, first of all it's in our charter, to identify purposes. Okay, I think our first charter question deals with users and purposes. Okay, so that's why we're focusing on purposes. Whether it's helpful in this particular exercise is very questionable, as a lot of you have pointed out. And in fact it may confuse the issue.

But I think we have one rough consensus conclusion that we can test in a poll between now and our face to face meeting and that is that domain name control is a purpose for collecting all of the minimum data set elements. So unless anybody strongly objects to that, that'll be in the next poll.

Now, unfortunately, Andrew's not here to help us out probably because of the time of day or other conflicts. But do we need to probe further, if – assuming that we get agreement on that rough consensus principle at this point in time, do we need to talk about publication rationale or in fact, I'm perfectly fine with calling it access rationale like Stephanie said, if that's a more comfortable term.

Do we need to probe further, is it going to help us move forward in the requirements we have to fulfill to focus further on publication rationale or, excuse me, access rationale? Or should we just let this go and move onto our next action items? Is there some particular need that we're fulfilling by doing that?

So, Lisa, was Number 5, I've got them somewhere – but is Number 5 – does Number 5 specifically say that already?

Lisa Phifer: Yes, Chuck, it does.

Chuck Gomes: So there would be no need to do a poll on that? Okay.

Lisa Phifer: Not if you're referring to the minimum public data set in its entirety.

Chuck Gomes: And we are. And of course we know that may change ,but yes. Okay so there would be no need to do that. And Neil, could you explain why you disagree with the term “access rationale” instead of “publication rationale”?

Neil Schwartzman: Certainly. Bennie said something earlier about stating this rationale because otherwise it's a – and I'm paraphrasing – a free for all (unintelligible). If we were to publish access rationale, does that mean for example, that no other access is allowed? The rationale is keeping the Internet running so does that mean law enforcement is not allowed to have access to it because it falls outside of our rationale?

Chuck Gomes: No, I don't think so. But again, we're talking about rationale to accessing these limited – and we've already said that – so we've got a legitimate purpose.

Neil Schwartzman: Yes.

Chuck Gomes: That we've agreed on. We've already agreed that they – tentatively that access should be allowed without a requester stating a purpose or without – what's the term we use, was it validation? The – so we've already – have tentative conclusion on that. Do we really need to do anything else on this table? Maybe not. If somebody can share what – several people have said let's move on. I'm fine with that.

So is anybody opposed to us just moving on and not pursuing this line of discussion any further? Staff, am I missing something? Vice chairs, am I missing something here? Neil, go ahead.

Neil Schwartzman: I think Ron and Tim are saying something particularly (unintelligible) comments and I suppose everybody can read them. But I think that they speak very specifically to Tim's point, accessing (unintelligible) publish, does not, I think is...

Chuck Gomes: Yes, and I see the chat but if we're not going to pursue this any further at least for the minimum public data set, then does it really matter right now what the difference is between publication and access? It probably will later, okay, as we get into other data elements.

((Crosstalk))

Neil Schwartzman: It does in the sense that I believe that I agree with Tim that access applies a gate and there cannot be a gate for the minimum public data set.

Chuck Gomes: But for our discussion now, does it matter?

Neil Schwartzman: (Unintelligible) so I'd have to say, yes, it does. I mean, if we can agree to those two principles that it's published, not – that we – that the access level is open or public, then I suppose I would be satisfied. But the – what I have seen in all of the discussions is telling those of us who are fundamentally opposed to gated access don't worry, we'll discuss the gates later, I worry. I worry a lot. My community worries an immense amount.

So I think that taking the time very carefully define those things around gates is not something that we should be delaying until later and they keep getting pushed back so I'm going to say yes, I mean, that is a high degree of concern for me (unintelligible), you know, this is but one of many discussions that we need to have so, you know, honestly you asked me to fundamentally agree with the notion of a gate, gated access, and you'd better tell me what that is now, not later. Don't tell me don't worry, we'll deal with it later, means when later comes and they say well you agreed to a gate and the gate is you don't have access, that's a problem...

Chuck Gomes: First of all, Neil, let me be clear. We have not as a working group agreed on gated access for anything. Okay? We haven't. We haven't gotten there yet. We're going to get there. Now we've agreed that for the minimum public data set, that there will be no gating. So I hope everybody understands that. We're hoping in Johannesburg to start getting in beyond the minimum public data set where we're going to have to look at things like gating in a much tougher situation. What we're trying to do right now is to get past what was supposed to be easy, what we called thin data.

Okay so let's take – we're running out of time so let's look at a couple of the things on the agenda. Going to – we don't have time to wrap up the loose ends on the access charter question, I don't think right now. Let's do some brief updates, okay, as we wrap up the call. So I'm on agenda Item 4.

With regard to the legal analysis, with the help of the five advisors that the leadership team has been consulting with, we've narrowed down – we've identified a possible legal contractor. Once we've worked through the details with that legal contractor, we can provide more detailed information on that. And staff has already started negotiating with that contractor with the strong hope that they would start answering the questions that we gave to the European privacy experts this month and thereby expend the fiscal year '17 funds.

So that is – that process is underway. It'd be nice if by the time we maybe even before we get to Johannesburg that that work will be underway. So for those of you who requested independent legal analysis, legal opinion in terms of answers to those questions, we're hoping that that will be underway in the next week or so. And then hopefully shouldn't take more than a couple months, maybe a little bit longer.

With regard to ccTLD responses, let me let Susan give you an update on that.

Susan Kawaguchi: Thanks, Chuck. This is Susan Kawaguchi for the record. We have received two responses so that's not too bad for a response rate so far, hopefully we'll get many more. I can't remember the exact number but I think we sent it out to over 20 countries registries. And dotME replied almost immediately and dotIE has replied with answers. So once we get a substantial number of those, we'll put that data together for the working group to review.

Chuck Gomes: Thank you, Susan. Let's go to plans for ICANN 59. Marika, you're probably the best one to kick that off.

Marika Konings: Sorry, this is Marika. I'm just coming off mute. So I think all the dates are actually in the note pod already so we're moving right close to the meeting date. The cross community discussion is scheduled for Monday afternoon

from 3:15 to 6:30 local time. Session slides have already been prepared and are available for everyone to review. A number of you have agreed to actively present during that session for which we're very grateful and planning will continue for that.

There's also earlier that day an update scheduled to the GNSO Council as part of the regular updates that are provided by the different PDP working groups on the status of work. And then there's also the face to face working group session which is scheduled for Wednesday from 8:30 to 12 o'clock local time. And you'll find in the agenda as well the link to the proposed agenda and all the related materials that are expected to be reviewed in advance.

Chuck Gomes: Thanks, Marika. This is Chuck. And just to let you know, the slides that will be used for the cross community session on Monday will be sent out to the full working group later this week. And those that are helping do some of the presenting have already sent the first cut of those but everybody will see those hopefully within 24 hours or just a little bit more. Lisa, go ahead.

Lisa Phifer: Actually, Chuck, I was just pointing out that the slides have actually been posted. They are part of the meeting materials for this meeting.

Chuck Gomes: Okay so they're posted on the ICANN meeting site for this session?

Lisa Phifer: They're posted on the agenda page for this cross community session, yes.

Chuck Gomes: Thank you. Okay. And are we also going to send them out on the list?

Lisa Phifer: Earlier this evening we sent the link to them to this – so we can do that again in the notes for this meeting.

Chuck Gomes: Thank you. Okay. And the – hopefully most of you can – or many of you can be there in person but if you can't keep in mind that there's pretty good

remote participation depending on where you're at in the world I guess. But ICANN's gotten that down pretty well so hopefully you'll be able to participate in these sessions remotely if you can't be there in person. Certainly look forward to seeing some of you there in person.

Now as far as action items, I don't think we're going to have a poll, doesn't seem to be necessary. Leadership team will put our heads together in terms of how we best wrap up the loose ends on the access charter questions. What we're going to try to do in – at least part of the meeting in Johannesburg is get ahead to where some of us have been wanting to get to for a long time and so that may mean we have to after that wrap up a few loose ends but we've I think made a pretty good start on that.

So our next meeting is the in person meetings next week in Johannesburg. And Marika just went through those so I won't repeat that. There is another session in – that's – I think it was sponsored by the ccNSO or requested by the ccNSO, it's a GNSO RDS update on Tuesday. That's not – we're not directly involved in that but certainly one that could be useful – yes, it's a GDPR session, I think I said that wrong, on Tuesday. Okay, again, we're not sponsoring that but certainly should be of interest to those of us in this working group.

Let me turn it over to anyone who has a question or any final action items that we need before we adjourn this call. Okay, thanks, everybody. Regardless of – it may not look like we accomplished very much but I think we may be eliminated some things that we needed to eliminate. We'll see as we go forward. Have a good rest of the week. Again, I hope to see some of you in Johannesburg and maybe some of the rest of you will participate on the phone or Adobe or both. Thank you very much. Meeting adjourned and the recording can stop.

END