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**ICANN Transcription**

**GNSO Temp Spec gTLD RD EPDP – Phase 2**

**Thursday, 17 October 2019 at 1400 UTC**

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. Attendance and recordings are posted on the agenda wiki page: <https://community.icann.org/x/A4YCBw>

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ANDREA GLANDON: Good morning, good afternoon and good evening and welcome to the GNSO EPDP Phase 2 team meeting taking place on the 17th of October 2019 at 14:00 UTC.

In the interest of time, there will be no roll call. Attendance will be taken up by the Zoom room. If you are only on the telephone, could you please let yourself be known now?

Thank you. Hearing no names, we do have apologies from Alex Deacon of the IPC and Marika Konings from staff. They have formally assigned Jen Gore (IPC) as their alternate for this call and for the remaining days of absence. Alternates who are not replacing a member are required to rename their line by adding three Z's to the beginning of their name, and, in parentheses, affiliation and alternate at the end. This means that you are automatically placed to the end of the queue. To rename in Zoom, hover over your name and click rename. Alternates are not allowed to engage in the chat, apart from private chats, or use any

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of the other Zoom room functionality, such as raising hands or agreeing and disagreeing. As a reminder, the alternate assignment must be formalized by way of a Google assignment form. The link is available in all meeting invites.

Statements of interest must be kept up to date. If anyone has any updates to share, please raise your hand or speak up now.

If you do need assistance updating your statements of interest. Please email the GNSO secretariat. All documentation and information can be found on the EPDP wiki space. Please remember to state your name before speaking recordings will be circulated on the mailing list and post it on the public wiki space. Shortly after the end of today's call. Thank you, and over to our Chair, Janis Karklins. Please begin.

JANIS KARKLINS:

Thank you very much. Good morning, good day, and good evening, everyone. Welcome to the 25<sup>th</sup> meeting of the team. You see the proposed agenda on the screen. My question is, are you in agreement that we will conduct our business today according to this agenda?

I see no objections, so we will proceed accordingly. Thank you very much. Let me start with the housekeeping issues, and that is an update on the Legal Committee. The Legal Committee met on Tuesday. If I may ask Becky to briefly tell us what has happened and what our results are. Becky?

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BECKY BURR:

Thank you very much, Janis. We met on Tuesday. We want through a number of proposed questions with respect to Questions 11 and 12. The team of volunteers has agreed, based on our conversation, to go back and take another shot at this.

We also agreed – I’m sorry; I’m new to this so I hadn’t prepared – to move forward on a number of other issues. We have another meeting scheduled for next weekend. I think we’re in shape to make good progress.

JANIS KARKLINS:

Thank you very much, Becky. Any questions to the facilitator of the Legal Committee?

I see none. We’re looking forward to receive the legal questions for consideration and subsequent submission to outside legal counsel. Thank you, Becky.

Let us move now to the next sub-item of housekeeping issues, and that is the status of building blocks. Caitlin, maybe very briefly you can tell us what we see on the screen.

CAITLIN TUBERGEN:

Thank you, Janis. As you can see on the screen, on the rightmost column, you’ll note that three of the building blocks are now complete for inclusion in the initial report. That includes Building Block A (criteria and content of requests), Building Block E (retention and destruction of data), and lastly Building Block K (receipt of acknowledgement). Thank you.

JANIS KARKLINS:

Thank you. I would like, of course, to see this chart much greener, but we are where we are. I hope that, during today's meeting, we will make further progress. So thank you very much.

Any comments on the status?

No requests, so let us then move to Agenda Item 4: accreditation. If I may ask to put the accreditation building block on the screen. So where we are now is, here, we had the first reading of Building Block F related to accreditation. Staff was asked to suggest edits on the proposed initial text which would capture every concern that has been expressed during the first reading. [So we started] the job, it was published, and, after publishing, we already received a few comments from team members on the suggested text.

May I take it that those sub-points where no comments have been provided on the Google Doc are the ones that we would live with and that we would concentrate, simply for the sake of time, only on those where comments and edits were suggested, that we can swiftly proceed or plow through this part and then concentrate today on the reading of the implementation guide? Would that be acceptable? Which means that we would deal only with those where edits are made on the new version of the text, starting with Sub-Point A.

Brian, you had some concerns.

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BRIAN KING: Thanks, Janis. I don't have any concerns with the updated language there. It looks like that's been addressed. I didn't understand why we would limit that to legal persons. It looks like that has been taken [care of].

JANIS KARKLINS: Oh, sorry. I understood that your question was on the suggested edits. But okay. Then I understand that A is fine for everyone.

BRIAN KING: Yes, it is for me. Thanks.

JANIS KARKLINS: Okay, Brian. Thanks. Anyone else?

No. Then there were Amr's comments on Sub-Point B.

AMR ELSADR: Yes. Thanks, Janis. I was just wondering. The requirements for accreditation here strike me to be a question for policy. What are these requirements? At some point later on, I think that there's a discussion on how to possibly de-accredit accredited users of the system. I think it mentions also that, if they don't fulfill the requirements for accreditation, they no longer do this. So shouldn't that be something that we need to spell out as part of the policy development process? I don't think this is an implementation matter. I think we need to be more specific than just referring to them as a [company of] requirements. So it was just a thought I

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wanted to share with the rest of them team and then see if we can work on this a little more. Thanks.

JANIS KARKLINS: Thank you very much. I think that this point mostly is suggesting that every entity must be accredited according to the same principles or baseline rules. But what type of documentation? What are these requirements that need to be provided? I'm not sure whether that is a policy question. But, again, this is just my personal observation. Happy to entertain conversation. Please, who is willing to take the floor?

Milton, please.

MILTON MUELLER: Hello. I agree that we want the requirements for accreditation to be uniform, so I'm a bit confused by what people are getting at when they say there may be incidents where an applicant may be required to provide additional documentation. I think maybe somebody who put that in or supports that could explain what they're getting at. That's all.

JANIS KARKLINS: Thanks. Alan Greenberg? And maybe, Caitlin, please be prepared to answer questions [that Milton has asked].

ALAN GREENBERG: Thank you. I put my hand up to try to answer the question. We're going to have lots of different kinds of entities. If nothing else, a

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legal person will provide information on their incorporation and how they have that legal status, which an individual doesn't have to provide. If they are being accredited as an attorney who had certain ethics and things, they may be asked to provide their bar credentials to demonstrate that they are in fact an attorney, not just saying they are.

So each type of – I don't want to use the word "category" – entity that might be accredited may well have different indications of proof that they meet that criteria. They're still going to be agreeing to the same code of ethics and things like that, presumably, but the actual details of what we ask them are going to vary. Thank you.

JANIS KARKLINS:

Thanks, Alan. That's probably the same that Caitlin would explain. Milton, are you in agreement?

MILTON MUELLER:

I'm not sure. Yeah, there's going to be as many different sorts of entities being accredited as there are people applying to be accredited. I think we could be more general here and say, if this is fundamentally about authentication, then you have to prove you are who you say you are. Again, I think those requirements should be as uniform as possible. We're not going to have a different accreditation agency for attorneys and another one for racecar drivers.

So what are we really getting at here? I think it's all about authentication. You just need to be able to authenticate who you

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are so that we can withdraw accreditation if you abuse your privileges.

JANIS KARKLINS: Thank you, Milton. Marc Anderson?

MARC ANDERSON: Thanks, Janis. I think that previous comments have made some really good points. B and C need to be read together because I think there's some overlap in principles between B and C. And maybe even C should come before B. I think people are making some good points about the different types of entities requesting accreditation. Certainly, what it takes to confirm somebody's intellectual property lawyer or the like is going to be very different from the steps that are required to confirm that somebody is with law enforcement.

So certainly there needs to be flexibility to take that into account, but I think Amr make a really good point to start this off, that there needs to be some underlying baseline of requirements that are uniform. I think I agree with his point that that's really a policy decision, so I think that's something we need to take a stab at establishing.

JANIS KARKLINS: Okay. Alan Greenberg, your hand is up again?



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ALAN GREENBERG: Yeah. Thank you very much. Milton said that accreditation is all about identification. I thought we had gone over this more than once and decided that, certainly at a minimum, it is identification if the person in the street wants to be accredited so they have easy access to the system. Then fine. That's all it would establish: identity.

But I thought we also said it may establish other things as well, such as maybe law enforcement. Maybe it's you're involved in intellectual property of cyber security issues. It may well establish credentials other than just identification. We seem to have talked about this more than once and come to the same conclusion, yet we revert back to it. I don't understand.

JANIS KARKLINS: Thanks. My recollection is that we discussed that indeed, that that would facilitate authentication of individuals but also put everyone more or less on the same basis that they would sign up with the same principles of use and code of conduct and all that. That would be also part of the accreditation. The only thing that accreditation would not grant is automaticity of replies to queries. So queries should be examined on their merits and not because of accreditation.

Amr and Margie and Mark Sv, in that order. Please.

AMR ELSADR: Thanks, Janis. Thanks for that last comment, Alan. It tees up what I wanted to say right now. I think, if we can draw a line between what needs to be involved in the accreditation process and what

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would be included in a disclosure request, that would be a good thing. Some of what Alan describes seems to make more sense to be included in the disclosure request. I don't think it would be helpful to a party seeking accreditation to make sure that they have to list every potential reason why they might seek disclosure at some point during the accreditation process. I think a more straightforward approach would be just to verify the accredited person or entity's identity, basically to say, "This person is from law enforcement. Make sure of that and provide accreditation on that basis," or, "This person has an interest in protection of IP. Then provide accreditation on that basis." But I don't know if it would be constructive to include every scenario where a law enforcement official would need to interface with the SSAD – the same for IP – based on whatever number of clients they have. So that's why I'm hoping we can become a little more specific on the requirements for accreditation. Thank you.

JANIS KARKLINS:

Thank you. I think we should not use law enforcement as an example. During the first reading we heard – also that was confirmed; actually, that started in Los Angeles – that, most likely, a law enforcement accreditation system may differ from an accreditation system of any other potential user of the system because of the nature of the agencies or entities and also the way they need to be treated. We heard in Los Angeles that, for instance, in some countries law enforcement would not even consider being accredited by Interpol or Europol, that that was out of the question. Therefore, let's, for the sake of our conversation,

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put aside law enforcement and let's talk of everyone else who is not law enforcement when we're using examples.

Margie, please, followed by Mark Sv and Hadia.

MARGIE MILAM:

Hi. Actually, I'd like to talk about what accreditation means because I thought we were also considering [something] a little bit different than what you described, Janis, that there actually could be the possibility of automated responses if allowed under applicable law. We have in our Legal Committee questions in the Byrd & Byrd about whether that's possible in certain circumstances. Granted, I don't think it applies to every single query for every single accredited type of entity, but there might be categories where there would be automated responses. If we get the answer from the Legal Committee that that's possible, then I don't think we should rule out that as a possibility.

So what I was suggesting in this section would be something like "And automation of responses where possible under applicable law." Knowing that there may not be a uniform answer to that all the time, there may be certain cases where you would have automation. I don't think that we've ruled that out from the definition of what "accredited" means.

JANIS KARKLINS:

Thank you, Margie. I think we're saying the same things but may be using different terms. I did not rule [that] out, when I said accredited entities would get automated responses. I said that accreditation does not mean automaticity [that], by sake of putting

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a query in, you would get an answer simply because you put that query in when you're accredited. No. Each query would be decided upon on its own merits, whether in an automated way or in a manual way. So that's what I was trying to say. But, of course, we already agreed that the system should be automated as much as possible and standardized for the rest.

Mark Sv?

MARK SVANCAREK:

Thanks. The way I've been thinking about this is that certain types of people – I know we're trying to avoid the term "user groups," but I do think that people are racecar drivers are probably different than people who are trademark lawyers, that, in any system, whether it's manual or automated, it's going to be more streamlined to perform the evaluation if you know who the person is, not just "I am who I say I am," but know what class of person they are. We're still, as it says in – where is it? – C, not saying that some category of people automatically get an answer, but you might want to do more scrutiny for some categories of people for some categories of requests. I hate to even say that, but I think that's probably true.

So, to that extent, I think that accreditation is more than just authentication of you are who you say you are. I think there is some element of "you are a thing" (you are a racecar driver; you are something like that).

I know that there's some definitions that are floating around and some people are scraping them together, so probably we'll have

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to submit those either to the chat or the list here. That's my opinion on this: if we simply state right now that this is only about your log-in credentials and has nothing to do with your attributes as a requester, I think we're missing an opportunity to streamline the process. So I wouldn't want to hang up too much on that concept right now as we're working on these particular bullets. Thank you.

JANIS KARKLINS:

Thank you very much. I have a feeling that we're repeating our conversation is Los Angeles during the first reading of the material. Of course, I understand the devil is in the details, but nevertheless, I think that the first principle that should guide us in this conversation is simply common sense. Then everything will fall into place.

Hadia, please?

HADIA ELMINIAWI:

Thank you, Janis, for what you just said. [inaudible] should also guide us with regard to automation or authorization for access of data.

With regard to what is being said about that the accreditation must be of a uniform baseline application procedure, I think that, yes, all application should have a uniform baseline application procedure. But, as for the requirements, those will definitely [inaudible] depending on the type of requester. The accompanying documentation will also depend on the type of the requester. So it

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is uniform and similar with regard to the same type of requesters, and that makes sense.

I would also say I don't know why we need this part of the sentence that says "noting, however, there may be instances when an applicant may be required to provide additional documentation." If we agree that we have different types of requesters and that requirements different from one requester to another, then also it makes sense that some applicants will need to provide documentation, but other applicants will not need to provide them. Anyway, we could still have this part of the sentence.

I do support everyone that said that accreditation is not only about identity but it's also about facilitating the authorization and the automation as well. Thank you.

JANIS KARKLINS:

Thank you. Again, accompanying requirements should be seen also in line or in conjunction with the unified baseline. For instance, if we are using a category of users – for instance, if we're talking about IP lawyers – the documentation that is required or requested to prove identify of IP lawyers should be the same. The procedure should be the same and also the requirements should be the same. So, if we're talking about security researchers, that's exactly the same thing. There should be the same, both procedure and requirements. I think we should read this in this slide and see whether you are in agreement.

Volker, please?

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**VOLKER GRIEMANN:** Thank you. I'm of the opinion that, by adding too much into one subject, I think we're derailing or encumbering the discussion too much. I think the question of [authorization] and accreditation should be decoupled. What accreditation actually gets you is a subject for a different day. Let's look at what accreditation must require and what the basis does. I think "facilitating" is just the right word. Facilitating might still mean that a data controller that decides over the disclosure may decide internally that they are willing to take the risk and allow certain forms of [authorization] on their own accord because they think that relieves them of work that they would otherwise not be able to do, for example, or allows them to economize a risk that exists. But they balance somewhere with their process. Others might not do that.

So I think "facilitate" is just the right word because it allows the controlling party, the data controller, to make a decision of what they are willing to give with the accreditation on top of what we mandate. Let's decouple the two subjects because, otherwise, we will just delve into a whole other animal that [doesn't have] a name. Thank you.

**JANIS KARKLINS:** Volker, we're talking about Sub-Point B. There's no word of "facilitation." Were you referring to Sub-Point B, or you're talking about a different sub-point.

**VOLKER GREIMANN:** We were discussing—

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JANIS KARKLINS: C. You are on C, probably.

VOLKER GREIMANN: Exactly, but we were just talking about that as well. I think going ahead of where we are and discussing automation here at this point is just leading us on a track might either derail or take too much time. Let's focus on accreditation and what it is.

JANIS KARKLINS: Okay. Thank you. Milton?

MILTON MUELLER: Number one, in our small team, one of the major things that came out of it, working with Alex, was that accreditation was not authorization. That was a baseline finding. We agreed on that. We had definitions of authorization. Now I think some people are trying to blur the line and make accreditation into some kind of authorization. We can't do that. We cannot just have somebody say, "I am an intellectual property lawyer. Therefore, I get automatic access to whatever I request." That just isn't legal, can't work, and won't get support from this committee.

Now, going back to Mark Sv, I agree that it might be desirable and it might actually be helpful to have attributes associated with accreditation. But there's also serious problems with this that we have to think about. Number one, the only attribute that really will consistently make a difference is whether they're law enforcement



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or not. That's a whole complicated question that we have to consider.

But think of some of the other attributes that we would be talking about, like cybersecurity research. Anybody who works in an IT department could claim legitimately to be doing cybersecurity research. All kinds of private companies could indeed say that they're doing cybersecurity research. I, as a free market person, do not want to set up entry barriers that say, "You are or you are not a cybersecurity researcher." I think that's bad for cybersecurity.

So the existence of an attribute that you claim to be a cybersecurity entity or organization will actually not be dispositive of very much in any way. It may be useful. That's where we get back to this word "facilitate" again. But it cannot be dispositive, so, at some point, accredited users are going to have to show "I have this trademark, and this domain name registration is infringing on that trademark." That's not going to be part of the accreditation process. It's just not. I don't see how anybody can maintain that it's going to be. There's going to be a two-step process in which you are authenticated user, and then there will be an authorization process in which disclosure is or is not provided. So I don't think we can maintain that distinction. I don't see how we can make any progress unless we do. We need to talk about, then, the role of attributes in the accreditation process and what they actually get you when you're trying to make a disclosure decision. Thanks.

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JANIS KARKLINS:

Thank you. I would like also to draw attention to the bottom of the document that we're talking about. There is a list of definitions. We have not yet gotten to them, but there is a suggestion. Maybe staff can scroll down, simply to show what I'm talking about. After implementation guidelines, there was a list of the definitions. Further down. So these are suggested definitions for a better understanding of the accreditation process for the purpose of that. We will have a reading of those definitions once we get there.

Alan Greenberg, please?

ALAN GREENBERG:

Thank you very much. I'd like to support what Volker said and decouple the discussion, but if we decide at this point that accreditation only proves identity, then we are going to limit what we can discuss when we talk about the release of data. I believe it is essential that we collect and verify data about the subject if there is something applicable. If it's not just a woman in the street who's applying for accreditation, we verify that and make it as an integral part of the accreditation process. That will allow streamlining when we come to the release discussion. If we don't collect the information at all, it's going to limit what we can use when we talk about the release.

There's a definition of insanity which says you do the same thing over and over again and expect different results. There are going to be many, many requests which are going to be very similar, other than the specific blanks that are filled in as to what trademark we're talking about or what the domain name is that we're looking at in this case. Anyone who's doing these kind of

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things on a regular basis is going to notice patterns. Those patterns we might be able to build into some automated system going forward if we have collected enough information. That's the target that we're looking for here.

So accreditation must be able to verify other characteristics other than identity to allow us to recognize those patterns. Yes, accredited as an IP lawyer does not guarantee you access. If I'm an IP lawyer and am accredited and such and I ask, "Give me the information about miltonmueller.com because I feel like looking at it," it wouldn't give me access. But if I say, "Give me information about a specific thing. Here I have a trademark which [it] is potentially in violation of," then it would perhaps give me automated access because the controller has recognized the pattern of requests, not because I am who I am but because the controller has decided that this is a valid pattern and this is how they respond to those valid patterns. It doesn't require a controller to do that but allows a controller to do that. But we need the information going forward at this point to be able to do that later on. Thank you.

JANIS KARKLINS: Thank you. I think we're going in rounds. Mark Sv will be the last one, and then we will proceed further. Mark, please?

MARK SVANCAREK: Thanks. I just want to say that I acknowledge Milton's concern. However, I think that the existing wording and Volker's

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interpretation of the existing wording addresses his concern. So I think we should move on. Thank you.

JANIS KARKLINS:

Thank you. What I – Volker, please take your hand down. I suspect this is the old one. What I would suggest is that staff will try to analyze everything that was said during this conversation in relation to both Sub-Point B and Sub-Point C and provide an provide an updated version for most likely online consideration further.

Let me see whether we can go to Sub-Point D and see [where] the suggested edits are acceptable. We discussed that a non-exhaustive list would be provided. It is now formulated. Can we agree on this proposal? Sub-Point D.

Okay, no reaction. I take that as this is done. So no comments on E and F. I take that as a small change [to these that's] just linguistic. As a non-native speaker, to me it sounds the same.

Let's go to G. This is the new ... On G, we had the last sentence added. This is basically combination of G and H that was agreed on that they should be merged. Any comments on G and H?

Marc Anderson, please?

MARC ANDERSON:

Hey, Janis. Sorry, I have a question back on D. Apologies for being a little late there. I guess I have a question on what exactly our expectation is for what this means. It says, "The accreditation

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authority must provide a mechanism for de-accreditation.” But so far, from what I can tell, the accreditation framework we’ve established is really just for establishing that you are who you say you are. So, when we say de-accreditation, does that mean you’re no longer who you say you are, or does that mean, once you’ve been de-accredited, then you are not allowed to access the system? So I guess I’m looking for a little clarity on just what is our expectation around what we mean by de-accreditation.

JANIS KARKLINS:

Let me try to explain. Yes, indeed, by accreditation we confirm that the entity who is asking [for accreditation] is what it says it is. But also, as a result of accreditation, we provide access to the system without further verification of identity, which means that every accredited system will get whatever password or whatever call it to access the system and to push to submit the query. So if that accredited entity will start to violate the code of conduct or abuse the system, then they would potentially, through the process of accreditation, lose this access to the system and would need to re-accredited or reconfirmed that they would behave according to established rules that everyone else is following. So that’s the meaning of accreditation.

Would that be something that would alleviate your concern?

MARC ANDERSON:

Thanks, Janis. Your explanation was excellent. I would suggest, though, that that isn’t really de-accreditation. That means that the accreditation authority must provide a mechanism for accredited

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users to have their access to SSAD revoked. I agree with your explanation. I think that's spot on, but I think that's not really de-accreditation. That's really revoking access to SSAD.

JANIS KARKLINS: Okay, thank you. Brian?

BRIAN KING: Thanks, Janis. My comment is on the next one if we're going to move on.

JANIS KARKLINS: Okay. With this understanding that Marc Anderson just explained and staff noted, would that be something we can agree on?

Okay, we will give it a try. Thank you, Marc. Now Brian. Brian, you were on G, right?

BRIAN KING: Yeah. Thanks, Janis. My question was on this – to your question, no objections to combining these into one bullet here. I think one bullet talking about audit is fine. The question here is about the second sentence. It looks like accredited entities must be audited for compliance with the accreditation policy and requirements. So the question is, are those two different things: accreditation policy and requirements? And are those meant to be capitalized terms? Are those defined terms somewhere? And where are those things? I see that the auditing building block is one, but what is accreditation policy and what are the requirements? Thanks.

JANIS KARKLINS: Let me see if there is any better formulation that staff can think of. Caitlin suggested that has not been defined yet. We take note of your concern, Brian. Maybe staff can put this accreditation policy and requirements in brackets and see where that should be reflected.

Apart from that, any other concerns?

Brian?

BRIAN: Hey, Janis. Thanks. I think we're okay with the concept of accredited entities being audited. We just want to make sure the parameters are defined and then, of course, reasonable, and, as we mentioned before, it wouldn't be appropriate to audit whether you did or didn't take Action X or Action Y with regard to the data. But we talked about that before. Thanks.

JANIS KARKLINS: Thank you. We took note and then we will see how to address this concern as we progress. So the text is in the records now.

Let me move now to I. Amr, you had an issue with this proposed language.

AMR ESADR: Yeah. Thanks, Janis. My issue was replacing that accreditation must be a paid-for service with that it should be part of a cost

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recovery system. Now, my understanding of the cost recovery system is that this is meant to cover the costs of development and deployment of the system or operationalizing it, which is all fine by me. But I'm not sure I see the sense is crossing out that it must be a paid-for service. I'm concerned that this would be suggesting that the costs need to be covered by some other form other than accreditation being a paid-for service, which I would very much disagree with.

The whole system (SSAD) is ... We're proposing policies to develop a system that would be to the benefit of third-party users who would request disclosure of registration data. I think our policy needs to be clear that the costs born should be by the users and not shifted to others. I'm especially concerned with those costs being shifted to registrants. I really would not want that to happen. So that's why I pointed this out. I'd prefer language that clarifies this. Thank you.

JANIS KARKLINS:

There are two types of costs involved. One is the development and the deployment of the system. That is one, but then there's the running costs. For instance, if you think about the accreditation process, somebody needs to be involved. I have no idea whether that is one person globally or ten. They need to be paid, so there's a salary cost associated. There is office costs associated. Who knows what other costs are associated? That should be some kind of cost-neutral. That's the idea. Somebody needs to cover that. Probably those who ask for accreditation need to cover those costs that incur in running that system.



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If you would look to the next building block, which is about financing, some of the elements or answers to the question should be found or can be found there. So my question to you is, are you in disagreement that there should be cost recovery? Because that's a different story. Then we're in trouble because I think we agreed in Los Angeles that the users of the system should pay for it.

AMR ELSADR:

Janis, no, I'm not in disagreement with that at all. On the contrary, I'm very supportive of that. I appreciate that there are these two different types of cost: one for development and deployment and the other for ongoing costs involving actually providing accreditation as well as processing disclosure requests.

JANIS KARKLINS:

As well, yeah.

AMR ELSADR:

Yeah. I think all of these costs need to be considered in a cost recovery system. To me, part of the whole purpose of accreditation is to try to lower these costs so they don't need to verify, for example, the identify of the requester every time a disclosure request is submitted. So that will help hopefully to drop these costs.

All I'm saying is that I think in this point here it needs to be very clear that whatever cost recovery system takes place – and ensure that these costs might be lower for some types of users,

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depending on whether they're accredited or not, for example. But what needs to be reflected here is that these costs need to be recovered from the users of the system, not from other parties. So it definitely should not be shifted to registrants who are not beneficiaries of the system in any way and also should not be shifted to contracted parties who would then in turn also shift these to registrants because they need to cover their costs one way or another. If it's not the users of the system who are covering them, then ultimately they're going to have their customers cover them. So I just think that this needs to be very clearly spelled out at this point. I hope that makes sense. Thank you.

JANIS KARKLINS:

Thank you. I think this is exactly what this paragraph, but let me take other reactions.

Alan Woods, please?

ALAN WOODS:

Thank you, Janis. [I] made a comment there about the term "significantly reduced." I made it, and I suppose I'll give my pure reason for it [inaudible]. The pure reason is we're talking about offering lower fees for submission to the SSAD, which is agnostic as to the level of what that reduction should be. Then we're saying it should be significantly reduced, if you were to read that next line. So I do have issues with a basis/assertion of significant reduction in those costs, especially considering that we're still talking about accreditation, which is just one aspect. In my experience, the identification is a preliminary matter and not the

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substantive matter, really. That's where the vast majority of the work would be. So I do have issues with the concept of "significantly reduced."

This then brings me, of course, to the wider, squishy point. The wider, squishy point is that this is a separate system. We're talking about cost recovery for a separate system, which is indeed in the SSAD. We're talking about a whole different thing. We're creating a second tower, in effect. This really at this point has given me an awful lot of pause. We must caution ourselves that we are creating something huge over one small aspect of this.

I think at some point, as we're barreling ahead – I know we have not a lot of time to do this – we really need to consider a cost/benefit on this because the costs of what we are doing about just figuring out somebody's ID, who they are – yes, that might involve someone saying, "Yes, and they do have a trademark," or, "Yes, they are confirmed to be members of law enforcement," which of course is not an automatic right (they must also have legal basis, which is a different test) ... Again, we're creating this Frankenstein's monster for just accreditation, and we're not even focused on the SSAD. So we really need to focus on how much this is actually going to cost at the end of the day. Not only that, but are we going to be able to achieve it? Sorry. That's throwing cold water on a side point, but my main point, as I said, is the words "significantly reduced." And I do have an issue with them. Thank you.

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JANIS KARKLINS:

Thanks, Alan. It would be easy if all information would be freely accessible as it used to be. If you need to protect that information, you need also to put some safeguards. I think that this accreditation idea is also part of the safeguards: know the customer, who is asking. Then, in the real world, you can look in the eyes of the customer when the customer comes to the counter. In the digital world, probably you cannot see eyes, so you need to establish that identity. How that should be done and how efficient it is a different story. Maybe we should think about the Estonian way of an electronic citizenship or digital citizenship type of thing for our system. Since this exists already, that probably is efficient. Anyway, take it as a job, but [let's do] some reflection as it relates to that.

Maybe the second sentence actually is not in the right place here. If we take it that this point simply suggests that the accreditation service should be part of the cost recovery system – then the rest, of course: if an accredited entity files a request, then there is not cost associated with the verification of the identify of the requester in SSAD. Hence, that part of the overall functioning of SSAD is cheaper. Maybe we should simply find the formulation in Block N, which says that the accredited entity has already paid for verification of their identity. Hence, their cost participation in the overall running of the system should be different from those who are not accredited.

Mark Sv, Milton, and then Greg.

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MARK SVANCAREK: Thanks. I've been in the queue for a while, so Alan Woods and Janis have covered basically what I wanted to say, but I will summarize. There are two sets of development costs. There are two sets of operational costs. There's the development and operation of the accreditation system, and there is the development and operation of the SSAD. This paragraph should be limited to the first one. The accreditation system is operated for the requesters. They should fund it, both the development of it and the operation of it. Regarding the development and operation of SSAD, that should be moved to the other block. Thank you.

JANIS KARKLINS: Thank you. Milton?

MILTON MUELLER: I think I wanted to make simple observations. One of them is that, based on what you said, Janis, is response to Amr, it seems like it all came down to whether you replace "may" with "must." I think what you said actually supported the idea as just leaving it as "must." However, I would also be amenable to what I think you suggested, which is to move all of that to Building Block N and not say anything about it here, other than that it should be part of the cost recovery system.

The other point I wanted to make was anticipated surprisingly by Alan, which is that we need to look at the overall picture here as we're stitching this Frankenstein monster together. We may end up with something that's unwieldy and expensive and that the benefit exceeds the costs. We need some kind of an escape valve

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in our policy that says we've been constructing this thing piece by piece, each piece in isolation from the other, and that, if, at the end of it, we realize that we've created something that really does not pass the cost benefit test, we need to rethink how we're doing things. So where would we put, as a policy principle, that the benefits of the SSAD system must outweigh the costs? That's all from me.

JANIS KARKLINS:

Thank you, Milton. Your proposal is noted, but that sounds to me like an overarching set of principles. But then also how you evaluate the cost of operations: you can quantify the benefit from maintaining the security of the Internet. An up-and-running could not necessarily be quantified. So that's a bit of a tricky part.

Let me see. Greg and Brian.

GREG AARON:

Thank you. I think I understand what Milton is saying, which is that there's a lot of uncertainty as our requirements continue to come together. One thing that can happen, though, is that, if you [lard] on too many requirements, you will make the system too expensive and you'll basically make this system not worth doing. I think that's exactly what we're trying to avoid because the system is generally desirable and there are ... We've got a lot of noise on the line. Thank you. So we don't want to say the cost must outweigh the benefits because you can make the cost outweigh it easily if you're not careful.

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On Point I, if somebody outside this group reads this sentence, I don't know if they're going to understand what it means. We do have to think about audience. I think what you're trying to say is that parties who want to get accredited are going to be responsible for the accreditation.

Let's also remember that there are two parts of the accreditation. ICANN might have a role accrediting accreditors. If so, ICANN needs to pay for that, not the accreditors. That's got a financial arrangement that's just not going to work.

So I think this language needs a little more work to make it clear what we're after. I'll leave that there. Thanks.

JANIS KARKLINS:

Thank you. I would like to suggest – of course, I will take comments from Brian and Alan Greenberg – simply that we maintain just the statement of principle that the accreditation service should be part of the cost recovery system and then delete the second sentence. We would explain that that's what is meant in the second sentence in Block N, where we're talking about financials.

Brian King, please?

BRIAN KING:

Thanks, Janis. Maybe we take a pulse check here. It seems that most folks are okay with moving this conversation to the financial building block. So I'd like to do that and then, as a spoiler alert, when we get there, I'll just note that we're not going to be in

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agreement with a concept of a pay-per-query type basis. We're fully onboard with paying for accreditation and thinking about how that works. I'll just note that when we get there. Thanks.

JANIS KARKLINS: Thanks. Alan?

ALAN GREENBERG: Thank you very much. First, I support what Milton said. We tend in ICANN to build things that [are] ironclad and failsafe and make sure nothing is wrong with them and build almost unwieldy and unimplementable things. I think we need to do a sanity check as we come closer to the end, that we're not doing that here. We do have a tendency to do it.

Amr earlier said something about – I don't remember the exact wording – that, essentially, registrants should not have to pay for this because they don't get anything out of it. As you said, Janis what they get out of it is a reliable, trusted DNS. That's part of this overall rationale for doing it.

But the main reason I put my hand up is we're talking about the SSAD and accreditation as if this is a clean slate that we're just starting with. That's not the case. The default, if we can implement an SSAD, is we stay with the current status quo, that contracted parties have to do all the work themselves. That means the registrars largely and registries – but largely registrars – are doing the work themselves. And someone is paying for that work right now. Now, it's either out of their profit margins, if they have any, or it's out of their fees. If they don't have profit margins, then they



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have to raise the fees. So we're not dealing with a clean slate where there are no costs to start with. There are significant costs that are being born by the contracted parties. As we do our evaluation of how should this whole mess we're building be funded, I think we have to look at cost savings that attribute to some parties as we implement a new system, in addition to the costs of the system itself. It's not a one-sided equation, just looking at the costs. Thank you.

JANIS KARKLINS: Thank you, Alan. James Bladel?

JAMES BLADEL: Thanks. Just to respond, first off I would take issue with the characterization that the clean and reliable DNS does not exist today. I would challenge Alan on his previous statement that, if we're saying we're working towards a cleaner and more trustworthy, that's fine. But to say that it is absent today I think is an unfair characterization.

Secondly, I just want to point out that we're talking about creating a new system from scratch. The new system will have costs. Those costs do not exist today. So trying to, I guess, draw equivalency between costs that may be occurring in other areas and other aspects and saying they'll be offset by other costs for a system that doesn't currently exist I also think is drawing a comparison that, at best, is disproportionate and, at worst, doesn't exist at all. Thank you.

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JANIS KARKLINS: Thanks, James. James, let me suggest that we delete, in I, the second sentence and we address the idea behind the second sentence in Financial Block N. Here we simply nail down that the accreditation service should be part of the cost recovery system as a principle and move on from this block to K, unless someone is in violent disagreement with that approach.

Thank you. K. Any problems with the formulation of K?

Marc Anderson, please?

MARC ANDERSON: Hey, Janis. Thanks. K reads a little funny to me, especially the second part about how RDAP must facilitate the tagging of accredited users so that users are easily identifiable in SSAD. I think I can probably make some assumptions on what that means, but if I interpret those words literally, I'm not sure that's very clear to somebody reading that: exactly what the intent is.

So I guess what I'm saying is, while I'm probably okay with the intent of K, I think the words need to be updated a little bit.

JANIS KARKLINS: Thank you. Can you suggest any edits on the fly or in the chat?

MARC ANDERSON: Not on the fly, but I would be happy to submit proposed updates offline, after the call.

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JANIS KARKLINS:                   Okay. Thank you, Marc. Hadia, please?

HADIA ELMINIAWI:               Thank you, Janis. I also wanted to ask about the meaning between the first and second part of K. In the first part, we say that the system must have technical capabilities of recognizing accredited requesters. Technically speaking, the system relies on RDAP. So I'm not sure how the first part differs from the second part. That's actually my question to whoever wrote that part. Thank you.

JANIS KARKLINS:               I think that the first sentence suggests that there should be credentialed issued as a password for accredited entities, and the system should simply recognize that. That's as simple as [such]. Otherwise, why are we doing accreditation if the system does not recognize accredited entities? Again, I'm looking at it from a non-technical perspective.

During the first reading, there was also a suggestion that there is some kind of already a technical access to RDAP and that the access mechanism for accredited entities should be somehow compatible or fully compatible with access to RDAP from this technical perspective.

So that's what this point means, and that is my recollection from the first reading.

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HADIA ELIMINIAWI: Okay. So the first part actually speaks to the authentication part [inaudible] to authentication, and the second part actually refers to ... So maybe we need to be a little bit clearer on the different steps required when we talk about this part because we have authentication and we have also credentials. Each requester will have credentials associated with him, as well as some other credentials or identifiers that will allow access to certain sets of data. So, yeah, this whole part needs, I think, further clarification.

JANIS KARKLINS: Yeah. Thank you, Hadia. Greg?

GREG AARON: Let me give a little technical perspective. One of the requirements we have up above is that the SSAD now take requests from accredited and non-accredited users, which means that non-accredited users are going to have to be treated a different way. We're complicating the system. This certainly would be more simple if only accredited users were using it, and non-accredited users were making requests through some different mechanism.

That said, if we keep that requirement, there's going to have to be some sort of implementation that treats those parties differently. Registrars will have to understand which parties are accredited and which aren't, and they're probably going to want to treat those differently.

We also at some point in the implementation are going to have to figure out how RDAP actually works in this system because RDAP is a query response protocol. You make a query and you get a

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response right back. But there's some complications with that because, if you send in a request, in some cases at least, the registrar is going to want to think about it for a while. We'll have to consider the request and think about 61F. That means there is no response. So we're going to have a system in which some queries come in and they get queued and then, at some point later, a response comes back. That's not exactly how RDAP was envisioned to work.

So, in purely technical means, these two sentences are a little bit redundant. I'm just raising the flag now that the business requirements that were laid out here have a lot of technical requirements that will require a lot of implementation thought later on. The more specific you get here, the more you box yourself in. Thanks.

JANIS KARKLINS:

Thank you, Greg. I have been reminded that there is a charter question that reads, "How can [we ensure that RDAP is] technically capable of allowing registrars/registrars to accept accreditation tokens and the purpose for the query? [inaudible] [existing] models are developed by the appropriate accreditors and approved by the relevant authorities? How can we ensure that RDAP is technically capable and is ready to accept, log, and respond to accredited requesters' tokens?" So that's what this point tries to address as a policy recommendation: that this system should be compatible with existing models in RDAP.

Marc Anderson, please?

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MARC ANDERSON: A couple points. First, I think Greg made some excellent points there. I think those were well-made and those were considerations, especially as we have the final form and shape of this system more fully fleshed out that we're really going to have to take into account. So I thought that was a really good point. Thank you, Greg.

The other thing I wanted to say is that, Janis, you provided your explanation of what the second sentence in K meant. I thought your explanation was spot-on and made sense to me, whereas the second sentence in K really does not. So I would support rewording that second sentence in line with your explanation. I thought that was much easier to understand and I think really better captured the intent of what it was trying to say.

One last point. For the first sentence, you suggested that that meant passing a username/password. I just wanted to note that that's one possible implementation. Another consideration – you alluded to that when you mentioned the charter questions – would be, instead of passing a username and password, passing a token, which would accomplish the same thing. But, by using a token, it also allows the ability to pass additional information, which, depending on the final system we end up with, may be important to us.

So I really just say that at this point just to remind everybody to not think in terms of just username and passwords. There are other possible technical solutions there that may be beneficial.

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JANIS KARKLINS: Thank you, Marc. I'm not suggesting that that should be a password. I'm just using it as an example. What other technical solution that would be best should be used. Again, we're stuck on this. We're talking more or less about the same things, the same understandings. What we need to do is to maybe work further on the wording. If Hadia and Mar[c], who spoke on these, could work with staff to fine-tune language, that would be appreciated.

Hadia, are you in agreement?

HADIA ELMINIAWI: Thank you, Janis. I am, but I just respond quickly to what Greg actually said. Actually, making the system available for everyone complicates [this]. If you take into consideration that the [requester] is accredited and each requester is given a unique identifier, that unique identifier could make this actually non-complicated. You could have a unique [identifier] – set or something – that refers to accredited people and then some other type that refers to other people.

So I don't agree with Greg that actually having a system available for everyone complicates things, if we are talking about a unique identifier. Thank you.

JANIS KARKLINS: Thank you. Brian is last.

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BRIAN KING:

Thanks, Janis. I'd say two things. One is to RDAP and the technical implementation. I agree with what Marc Anderson said. Also, from the registrar perspective, more might not be required. RDAP implementation, according to the RDAP profile, right now could facilitate that, especially if the registrar/whichever contracted party is merely responding to RDAP queries, if those queries come from the body that has already done the accreditation/authentication or taken responsibility for the disclosure request. We're working toward that scenario in our leap of faith, so I would assuage those concerns there.

The other is that we did envision that unaccredited users or maybe users that got a "accreditation" by validating their e-mail address or providing some minimum or sufficient amount of contact information could use the system. We didn't envision that this would just be law enforcement/IP/cybersecurity types but that, if someone else [that] didn't fall into one of those buckets that we've been thinking about needed to use the system, they could. I'm not sure that we need to abandon that concept. I think that's probably pretty workable. Just wanted to note that. Thanks.

JANIS KARKLINS:

Thank you. Again, I think that we already agreed earlier that those who are not accredited would be treated on the slow track, if you wish. They will need to provide proof of their identity prior to their request being considered. Those who have been accredited would skip that phase and would go straight to the system, and their request would be examined without verification of their identity. This first part of the point speaks about that this accreditation system needs to recognize that accreditation. Then the system



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should be compatible with whatever exists already in the WHOIS space or, rather now the RDAP space.

Again, I feel that we are in agreement on conceptually what is written here. Maybe we want to fine-tune further language. I encourage interested team members to work with staff to fine-tune further language and see whether we can swiftly move further to implementation guidance since [that one was] not commented [on].

So L stays as suggested. Now let's do a quick reading of implementation guidance. I would like to ask you to indicate your violent disagreement on what is seen on the screen – conceptual disagreement – since Amr commented – I think that was Amr who commented – at the very beginning, at an early stage, that WIPO shouldn't be mentioned in this context. WIPO is simply an example. It's not necessarily that WIPO will be approached. Simply, if there is no well-established organization in certain areas, they could be approached by accreditation authorities to help out, but not necessarily that they should or will be.

Sorry, Amr. Then it's somebody else. But there was a comment saying why WIPO is pointed out. It's simply as an example. Nothing more than that.

Brian, please?

BRIAN KING:

Hey, Janis. Thanks. No violent disagreement, but just one drafting note that I think could be important. In C there, in the first bullet, we have a legitimate and lawful purpose described above. What's

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described above? Maybe instead of “described above,” if we said “legitimate and lawful purpose stated,” that might clarify this. Thanks.

JANIS KARKLINS: Okay. Thank you. Amr?

AMR ELSADR: Thanks, Janis. Just to verbally express my comment on this section, I think a lot of what’s under implementation guidelines here actually belongs in the policy. I think the first section probably belongs ... A and B probably do belong under implementation guidance. But I think most of what’s under accredited organizations from C to D and then de-accreditation ... I think a lot of that probably needs to be in the actual policy language as opposed to implementation guidance. I’m just wondering how others feel about this as well. Thank you.

JANIS KARKLINS: Thank you. Let me ask. I suggest, Amr, that some parts of, as he now stated – accredited organizations, C, D, and also de-accreditation – should be moved to policy. Would that created any difficulty or concern?

No disagreement? Okay. But, nevertheless we will agree on the proposed wording here. Then we will move agreed-on text to the policy section. Any comments on the second part? Brian already spoke about the first bullet point of accredited organizations. Any other conceptual disagreements on de-accreditation, which

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probably will be renamed as a result of our conversation? This is not de-accreditation in the meaning of questioning the identity of an entity but rather removing the access to the system for misbehaving. Any difficulty with the current de-accreditation?

Amr?

AMR ELSADR:

Thanks, Janis. Again, this would depend on what we land on in terms of what the specifics of accreditation are and what purpose it's supposed to serve and what it would mean for someone to be de-accredited. So I guess this also depends on what assumptions we have right now are on the linkage between de-accreditation and authorization or whether that linkage does not exist. So think, if we answered those questions definitely first, it would help us answer what is involved in de-accreditation. Thank you.

JANIS KARKLINS:

Again, following common sense, if accreditation means facilitation and acceleration of consideration of the query, and then, if the accredited entity misbehaves in one way or another or abuses the system, then it is simply banned from access to this system and their privileges are withdraw. I think that was Milton's formulation. So that is what that means.

Marc Anderson, please?

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MARC ANDERSON: Thanks, Janis. A couple points on this one. One is just a note that, in L.A., we talked about de-accreditation in terms of not just for the users but also for the accrediting entities. So we talked about scenarios where accrediting entities may need to be subject to penalties as well. I remember that being something we talked about in L.A., but it's not clear what this de-accreditation section is referring to. Does this apply to accrediting entities, users of the system, or both? So that's an observation.

On E and G, E talks about that de-accreditation should include graduated penalties. I'll note that this could include, for example, that your rights to access SSAD are to be suspended for a week or a month. That's not uncommon in other similar type systems, whereas G gives you a more finite "one you've been de-accredited, that's it." That prevents you from being re-accredited, absent special circumstances. So maybe E and G potentially are in conflict with each other.

Lastly – this goes back to my previous point above – de-accreditation maybe isn't exactly the right word here. I think we're talking about accredited users having their rights to access the SSAD system being suspended. De-accreditation doesn't really seem to be the right word here. Thanks.

JANIS KARKLINS: Thank you, Marc, for input. That's noted and will be used for reediting the text. Stephanie?

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STEPHANIE PERRIN: Hi. Forgive me. I've missed a couple of meetings and perhaps I've not adequately caught up, but I think we're still dancing around definitions here. What exactly does "access to the system" mean? A person's de-accreditation from being a member of a group whose identity is being verified by an outside agent/authority/whatever cannot be denied access to the public data based on misbehavior or whatever. So I have numerous questions that all stem from the use of the term "access to the system." Anybody will still, even if they were thrown out of a company for bad behavior, be able to get public data, right? It was my assumption that we were talking about a unified system here. So I'm not clear on what you folks mean by access to this system being denied. Even a malefactor, if they come in with a valid request, will have to be permitted access to the data in my view. Thanks.

JANIS KARKLINS: I think you're absolutely right. We're talking about a standardized system of access or disclosure of non-public data. But, of course, the access to the public part of the data will remain as is.

Alan Greenberg?

ALAN GREENBERG: Thank you. I think it depends on whether this system, the SSAD, is being used only by accredited or non-accredited. We seem to have had several discussions where various people said either they should or shouldn't. I remember I made the case that, since even a non-accredited person is going to have, it would be better

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for everyone to come in on the SSAD and be logged and go through a standard process, even if we have to verify who they are or the contracted party has to verify who they are. But other people said, no, this system should be limited only to accredited people. So it comes down to the question of, is the SSAD being used by everyone, accredited and non-accredited, obviously going through somewhat different paths in the system and being subject to perhaps different user interfaces? Or is it just accredited? Thank you.

JANIS KARKLINS:

Okay, Alan. In my mind we have repeated this already two or three times, but let me give it another turn. Can we agree – please, only those who disagree with what I will say now raise your hands – that the SSAD could be used by both accredited and non-accredited? The difference between accredited and non-accredited is that accredited entities will go through and then place their query in the system without verification of their identity and any other necessary step. But those who are not accredited will need to provide information about their identity and sign all the codes of conduct and the terms of use of the data if it will be disclosed. Then, after that – the termination – their query will be examined based on its merits. Can we agree with that or not?

Stephanie, is that your old hand or new hand?

Stephanie, I'm not sure. Is this your old hand or new hand?

Amr, are you in disagreement with me?

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AMR ELSADR: Thanks, Janis. No, I'm actually in agreement with you – violent agreement. I think I would also add to that that the cost structure for non-accredited users would be different than that for accredited ones. I think that would be a sensible thing here because, of course, non-accredited users cost significantly more to process their disclosure requests. But, yes, in principle, I think what you've described is exactly what accreditation should reflect. Thank you.

JANIS KARKLINS: Thank you. Marc Anderson, are you in disagreement with me?

MARC ANDERSON: Thanks, Janis. I don't have an objection to what you just said. I just want to clarify, though, that my main concern on this issue is not excluding anybody from accessing SSAD. If that means the SSAD must accept accredited and non-accredited users, then so be it. But another solution could be ensuring that everybody has an avenue to be accredited to access the system.

So my main concern is not making sure SSAD accepts accredited and non-accredited users. My main concern is making sure that SSAD is usable by everybody and doesn't exclude people unnaturally. So I'm okay with what you said, but I wanted to provide that little extra context.

JANIS KARKLINS: You said exactly the same thing, only using different words. Thank you for that. Stephanie?

STEPHANIE PERRIN: Thanks very much. I think Marc has raised an extremely valid point. How one does identity verification is a decision that ICANN as the controller ought to be making in the public interest. In my view, it may well be in the public interest to have identity verification centralized by an authority who knows who to do identify verification and can be trusted with the documents that people will be asked to identify themselves with.

So I'm as worried about the non-accredited users as I am the accredited users, but particularly in our stakeholder group, we recognize that an individual should not be A) asked to pay for a system that big business has offloaded, and B) prevented from getting access to data that they might legitimately need to protect their domain name, or C) hand it over to rogue operators that are going to harvest their personal data when they verify giving access. I know that nobody who shows up at ICANN would be among that group, but I hear through the rumor mill that there are actually operators who aren't necessarily, shall we say, following all the data protection rules with respect to the maintenance of their personal information.

So those are my concerns about this. I think that we have to keep that in mind. Everybody has a right to request access to data. Thanks.



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JANIS KARKLINS: Thank you. I would want know to stop this conversation because we are in agreement on what I said. We need to focus and try to progress as fast and far as we can.

Amr, your hand is up. And Alan Greenberg. That's about it for this topic. Please, Amr.

AMR ELSADR: Thanks, Janis. Very quickly, just wanted to also say something similar to what Georgios was saying in the chat. To add to my last comment on accreditation and de-accreditation, de-accreditation should also probably include that the de-accredited user may not submit disclosure requests for redacted data, while taking into account what Stephanie said a little earlier, that they should still have access to data that is already public, which is not redacted, I mean. Thank you.

JANIS KARKLINS: Thank you. All these comments will be analyzed by staff and will be used for the rewording of the text. But we need to get to the end of it. Alan, please?

ALAN GREENBERG: Thank you. Responding to something Stephanie said, my recollection is that we said that registrants will access their own data through their registrar and not through the SSAD. So access to their own data is a different issue than what we're looking at here, I thought, unless I misunderstood something. Thank you.

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JANIS KARKLINS: Thank you. With the understanding that staff would reword based on this conversation, including Georgios' suggestion – thank you, Georgios—let's see what we think about fees. No, no, [Alan.] The same. Fees. Any comments on that part? But, please, if you are in total disagreement because, after the meeting, I will invite all of you to provide comments on specific edits, if you wish to make them. For the moment, please stay on conceptual things: auditing/logging.

No one? Good. Then there is – Marc Anderson?

MARC ANDERSON: Thanks, Janis. We've created a new building block for auditing, and we've done a lot to move the financial stuff and the financial system for [sustainability] building block. I'm wondering if that should be applied to these bullets as well.

JANIS KARKLINS: You mean auditing and logging?

MARC ANDERSON: As well as fees. I'm wondering fees should go the financial sustainability building block as well.

JANIS KARKLINS: Okay. Thank you for the proposal. I think – yeah – staff will consider that. Chris Lewis-Evans, please?

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CHRIS LEWIS-EVANS: Sorry. I couldn't get off mute. I might have mis[inaudible]. I and J are pretty much the same, I think. I think if staff, if you combine the two, that would be really helpful. They're basically saying the same thing. I'd like to [inaudible] because I think, at the [last meeting], some accreditation agency might give the accreditation applicants a free access or free application to be accredited. Thank you.

JANIS KARKLINS: Thank you, Chris. Let me see if – can you display the definitions? Probably it wouldn't be time to go through each of the definitions, but my question is – these definitions were put here based on already existing definitions in different documents; you see in the footnotes the source of these definitions – whether that would be useful to keep the definitions specifically related to accreditation in this part. Yes or no. Because, in my view, it would be useful to have those definitions. We may want to fine-tune them as we discussed here, simply to clarify the meaning of those. But the basis would be already from existing definitions from known sources.

I see Hadia's hand up.

HADIA ELMINIAWI: Thank you, Janis. I do agree with you that having the definitions is quite a good thing. However, I think we should have the definitions of the terms that we are using and not terms that we did not refer to or use. For example, I don't see us using the term "credentials"

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anywhere there in the proposed document. I'm not sure if I missed it or if it was there. Again, I support definitions, but I support putting in definitions that we actually use or refer to. Thank you.

JANIS KARKLINS:

Thank you. Any other comments on definitions?

I see none. Okay, there is Milton's comment. Okay. So thank you. Let me then suggest, since we are 15 minutes away from the end of the call, the following. The implementation part of the term, as well as actually the policy principles, will be reworded by staff based on today's conversation. I would really hope that the policy part we would finalize offline. On the implementation I would invite everyone to provide comments on the Google Doc, maybe by the end of tomorrow if possible. Then staff can propose the edits for the second reading of that. Once we will agree on implementation modalities, then part of those we would move up to the policy principle part.

Would that be okay? I think [there was] also the definitions. So we would maybe need to think of clarifying existing definitions with the very specific meaning for the purpose of our exercise, like what we mean when we say "accreditation," and so on.

Let me see. I would like really to go to the financial sustainability building block and have the sense of the team on what is proposed, of course, with the understanding that parts that have been moved from other building blocks to this one will be added, since we discussed financials in Los Angeles. But we need now to

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see whether staff has captured everything correctly. So let me suggest that paragraph reading – the first paragraph.

Any comments on the first paragraph? The EPDP team recommends that.

On the second, the EPDP team expects that the costs ... Everyone is happy that ICANN is paying.

The third paragraph: subsequent running of the system.

Matthew?

MATT CROSSMAN:

Hi, everyone. I guess just one suggestion on the third paragraph. I know we say “cost recovery basis,” and we’re using this term in a different couple places now in our policy recommendations. I think we actually maybe need to define that term a little bit better. Cost recovery is term of art in the accounting field, where essentially you’re not reporting any income until you’ve recovered those costs. But it doesn’t preclude you then from making income once those costs are recovered. I don’t think that’s exactly what we mean here.

So my suggestion would be that maybe we spell out here what we mean by cost recovery, rather than just relying on that as a term of art. Thanks.

JANIS KARKLINS:

Okay. Do you have any specific term in mind? If you could type it in the chat room.

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Milton?

MILTON MUELLER: I agree with the comment that was just made. I suspect the term “cost recovery” means different things to different people. I think it was James or somebody from the contracted parties who proposed this term. If it means what I think it means, I’m okay with it. But I want to pin that down a bit more.

Also, I’m a little bit suspicious, coming from a background in utility regulation. I want to know what we mean by historic costs. Hopefully not prehistoric costs, but whoever put that word in there I want to know more what they mean by it.

In general, however, the principle that I think this is getting at is that the users of the system should be sustaining the financial capability of the system on an ongoing basis. This distinction between development and operational costs is okay with me.

JANIS KARKLINS: Thank you, Milton. Matt Serlin?

MATT SERLIN: Thanks. I’m sorry. I want to go back to that second paragraph. I don’t think we would agree that the cost would be initially born by contracted parties. I think that we specifically would object to that. If you stop with ICANN org, it would be better, but as we’ve talked about earlier, if ICANN org is going to be bear the costs, that’s ultimately going to flow down to the contracted parties and

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ultimately to the registrants. So I think that would be problematic as well. We will provide some more concrete feedback in the document and on the list, I'm sure, but I wanted I didn't want the call to end without making that point. I think it's safe for me to speak for all the contracted parties – registrars and registries – that we would object to that. Thanks.

JANIS KARKLINS: Thank you. That's important to know. Greg?

GREG AARON: I think what we discussed in Los Angeles is that the different parties involved may be each bearing different costs. If you're a requester, the costs you would bear we would be to get accredited. You also have to set up your system to make and receive queries. Then there's meat in the middle. There is some feeling that that was the responsibility of ICANN to pay for somehow. Then the parties who are receiving the queries – the contracted parties – would be responsible for setting up their systems to receive queries and respond to them.

What I'm not seeing in this language is explaining that kind of concept. Again, we have to think about the people who are not in this group who are going to read this material. Cost recovery doesn't necessarily convey that division of responsibilities and so forth. So this needs a lot more work. Thanks.

JANIS KARKLINS: Thank you. James?

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JAMES BLADEL:

Hey. Thanks, Janis. Just agreeing with some of the previous comments, that, if we're not comfortable with the term "cost recovery" or if that's bumping up against some other, more generally accepted definitions, we should lose it and maybe focus on allocation of costs. That's just one of the proposals that I put in chat. But we should come up with something else.

I do want to emphasize, though, that is important to attach the costs of SSAD to the beneficiaries of SSAD. ICANN registrars/registrants, I think, making the case that they are beneficiaries of SSAD is a challenge. The beneficiaries will be the parties that gain accreditation and use the system to obtain non-public data for the furtherance of their work and their investigations. So I think we just need to make sure that we're clearly associating or allocating the costs of the system to the folks who benefit from it.

Maybe it's a function like Greg was saying, where you have accreditation and therefore there's a subscription or something associated with that, and then that includes some level of access commiserate to the amount of queries that someone is anticipating that they will send to the system.

But I think we need some work on this. Thanks.

JANIS KARKLINS:

Okay. Let me test the fourth paragraph, [seeing as] we are now four minutes from the end of the call. Any issue with the fourth paragraph?



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Milton?

MILTON MUELLER:

Again, the question that comes to mind is – remember that principle that I tried to propose earlier in our discussion on accreditation: the cost/benefit ratio – when would this cost analysis happen, and would we be able to step back and say, “Wow. This is really so expensive that we need to rethink how we’re doing this”? That’s one question I have reading this paragraph.

The other thing is you can see here that I have made certain proposed modifications. We are very much in favor of the principle of usage-based fees that sustain the operation of the system. Two points about that. One of them is that the language about prohibitive or deterring fees I propose to cross out, not because I want to fees to be prohibitive. But the point is it depends on what you mean by deterrence. Any time price is greater than zero, you are deterring some behavior. That’s the whole point. There has to be a value proposition in which use of the system is actually more valuable than not using it. If you don’t have to pay anything to use it, you are destroying that fundamental check and balance and accountability of the system’s efficiencies. So we think that really, at the policy stage, we have to rule out the notion that usage will be free and that there has to be some kind of connection between the cost of usage and the volume of usage.

Let me see if there’s anything [announced] here. Right. So you’ll see that I also proposed to cross out “during the implementation phase” so that, I think, we can’t decide we’re going to build

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something and discover how we're going to fund it. We have to work that out during the policy phase, not during the implementation phase.

All right. [inaudible]

JANIS KARKLINS: Thank you, Milton. I will take Marc's comments and then we will draw this call to an end. Marc, please go ahead.

MARC ANDERSON: Thanks, Janis. I had a similar point to Milton's on the request for ICANN to curate a cost analysis. We as a working group really need to figure out how to do that earlier in the process. If we're doing it as part of the policy recommendations, it's really too late. So basically I agree with Milton's point. Let's figure out how to bring that in and ask for that cost analysis before we finish our work.

JANIS KARKLINS: Okay. Greg, sorry, we are late—

GREG AARON: Just very quickly. In response to that, as somebody who has costed out and designed systems, you can't cost it out until you know what the system has to do. We're still setting requirements, so this is going to be difficult to do. At some point, you're going to have to cut things off and then your costs might be approximate. That's all.

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JANIS KARKLINS:

Thanks. I need to look and read the report of the Technical Study Group. I understand that that that system is something that ICANN was ready to build or is ready to build, if that proves to be feasible from the data protection perspective. I need to see whether there is any financial cost analysis in that report, so I will come back with the staff. We will look at. Certainly, I would invite everyone to contribute to the Google Doc on financials. We will add additional elements that were taken from other building blocks.

Before closing, I would like to see whether there is anyone on the team who would like to volunteer and put a few sentences, a few bullets, in the terms of use/disclosure agreement/privacy policies building block – in other words, Building Block M, as you see it is completely empty. It would be easier if somebody would be willing to put some points, maybe working together with staff, so that we can start with something. So I would like to invite volunteers to identify themselves, not now but immediately after the call, so we can rely on your help. Building Block M is terms of use, disclosure agreements, and privacy policies. That is Building Block M.

Unfortunately, I have to close this meeting. We are already past two years. That is not good style. Thank you very much for your participation. The action items will be circulated immediately after the call. The next call we have is Tuesday, the 22<sup>nd</sup>, at 2:00 P.M. UTC. And we will have also another call next week on Thursday.

With this, thank you very much for your active participation. I wish you a good rest of the day. Thank you very much. This meeting is adjourned.

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**[END OF TRANSCRIPTION]**