
ICANN Transcription
GNSO Temp Spec gTLD RD EPDP – Phase 2A
Thursday, 15 April 2021 at 14:00 UTC

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TERRI AGNEW:

Good morning, good afternoon, and good evening. And welcome to the EPDP P2A Team Call taking place on the 15th of April 2021 at 14:00 UTC.

In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. If you're only on the telephone, could you please identify yourself now.

Hearing no one, we do have listed apologies from James Bladel of the RrSG. And they have formally assigned Owen Smigelski as their alternate for this call and any remaining days of absence.

All members and alternates will be promoted to panelists for today's call. Members and alternates replacing members, when using chat, please select All Panelists and Attendees in order for everyone to see chat. Attendees will not have chat access, only view to the chat.

Alternates not replacing a member are required to rename their lines by adding three Z's to the beginning of their name, and at the end in parenthesis, your affiliation "-Alternate" which means you

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are automatically pushed to the end of the queue. To rename in Zoom, hover over your name and click Rename.

Alternates are not allowed to engage in chat, apart from private chat, or use any other Zoom room functionalities such as raising hands, agreeing, or disagreeing.

As a reminder, the Alternate Assignment Form must be formalized by the way of the Google link. The link is available in all meeting invites towards the bottom.

Statements of Interest must be kept up to date. If anyone has any updates to share, please raise your hand or speak up now. Not seeing or hearing anyone, if you do need assistance, please e-mail 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 posted on the public Wiki space shortly after the end of the call. As a reminder, those who take part in ICANN multistakeholder process are to comply with the Expected Standards of Behavior.

With this, I'll turn it back over to our chair, Keith Drazek. Please begin.

KEITH DRAZEK:

Thank you very much, Terri. And good morning, good afternoon, good evening, everyone. Welcome to our meeting number 15 of the plenary group of EPDP Phase 2A.

[I'll] kick things off right away, but I do want to take a moment to, I think on behalf of everybody, congratulate Steve Crocker for the addition to his family, welcoming his granddaughter. I think it's important that in these challenging times, we do take a moment to acknowledge good news and great news and wonderful news when we have it. And so, Steve, I think on behalf of all of us, and I've seen it in chat as well, thanks for sharing your news with us. And congratulations to you and to your entire family on the addition of your granddaughter.

STEVE CROCKER: Thank you. And she will be on the alternate list very shortly.

KEITH DRAZEK: Excellent. Glad to hear it. So, yeah, thanks Steve. And I do want to take a moment here also to thank everybody for the contributions that you've made to the list here over the last 24 hours. I'm very encouraged by the conversation that's been teed up on the list. I think that's exactly the type of interaction that we need to have right now as we enter the last remaining portion of our engagement here over the next six weeks or couple of months as we work towards preparing an initial report.

And, of course, there would be further work following an initial report to get to a final report, but we really are in crunch time right now. So, I'm glad to see that folks are engaging and contributing and, frankly, having a dialogue on the list. I think it's really welcome.

I think the key for us now is to make sure that we are taking that input and that energy and that momentum and helping to focus it and all of us on the document that staff has worked to produce following the input that everybody has provided to the write up. For lack of a better word, we're calling it a write up, but it is essentially the draft of the language that would be included in any initial report.

I'm heartened, I think, by the fact that the current and the latest version of the write up—and I don't know that everybody's had a chance to review it in detail—I think is actually an excellent framework around the discussion, or framing the discussion, that we've had on the list in the last 24 hours. So, I do want to thank those who contributed. And apologies if I missed anybody, but Milton, Steve, Melina, Volker, Laureen, Hadia, Alan, Brian, and Mark SV, I think, have all provided some very recent and timely input and dialogue.

But we do need to bring this back to a focus on the document and the language that is before us. I think Milton did a great and, as always, an excellent job of leveling up and identifying some of the fundamental issues and questions and challenges. But I don't see what Milton has proposed as being inconsistent with the latest write up. I think it actually ties and tracks quite well together.

So, I just wanted to note that. We are going to turn to the document, but I don't want to lose the opportunity for us as a team to continue the dialogue that's been teed up on the list. So, that's my intro. So, I think there's a lot of common ground being identified and developed here, and now it's the hard work of making sure that we're all comfortable with—or if not

comfortable—flagging and proposing alternatives to the language that's included in the write up.

So, when we get to 3A under Guidance Development, we'll put up on the screen the latest version of the document and walk through it. And really need to focus on the key questions that have been identified, the nine questions that you see in the agenda before you that were circulated to the list.

So with that, I'm going to pause and hand it over. I should also note that we did get responses back from Bird & Bird. Thanks to everybody for your understanding about the repurposing of the plenary last Thursday. Not ideal, but I think necessary under those circumstances. And I'll note, we can talk about this at the end, but we do have the opportunity to schedule some additional plenary sessions on Tuesdays if needed, and I think at some point we're probably going to want to include some additional sessions to help us advance the work forward. But we do have a placeholder now identified through the Doodle poll to make sure that we've got some time carved out as a placeholder on Tuesdays, similar to the time frame and the cadence of the EPDP Phase 1 Phase 2.

So with that, I'm going to hand it over to Becky at this point for an update on the Legal Committee and the progress and current status of the Legal Committee and the feedback from Bird & Bird. And then we'll get right into the substance. So, Becky, over to you.

BECKY BURR:

Hi. Can you guys hear me?

KEITH DRAZEK: Yep, sure can.

BECKY BURR: Great. So, we have received responses from Bird & Bird on three of our four questions. The fourth should be—which is actually question three, I believe—we're expecting anytime. We took that information, and Org put together a chart that compares the existing guidance and notes relevant, new input from Bird & Bird which was pretty discreet, I have to say, and very well called out. And so, that has been circulated, I believe.

But we are essentially wrapped up, with the exception of this final question that we're awaiting input from Bird & Bird, and then a final call on whether any other questions are needed.

KEITH DRAZEK: Okay. Thanks very much, Becky. And so, I'm just going to pause there and see if anybody would like to raise their hand or get in queue on the questions to Bird & Bird, the responses from Bird & Bird. I think, critically, Becky's last point there is, do we anticipate any further questions being required? Because, obviously, there's a timing aspect there in terms of developing questions and receiving responses, considering responses.

Berry, I see your hand. Go right ahead.

BERRY COBB: Thank you, Keith. Just to build on what Becky had said. Since we still don't have a response from Bird & Bird on question three, next

Tuesday we will send out a placeholder invite for the Legal Committee in hopes that we do have that advice, and that can be reviewed by the Legal Committee. And just like the others, as soon as we get it, we'll share it with the full plenary. But we'll have the placeholder for the Legal Committee to review that if necessary and be able to get that onto the calendars. Thank you.

KEITH DRAZEK: Thanks very much, Berry. And thanks for that. Steve, I see your hand. Go ahead.

STEVE CROCKER: Thank you. So, I want to emphasize a point that was right up front in what I submitted, which is from our point of view, a fundamental thing that is much broader and more fundamental than the discussion about consent about having your name published or not. The fundamental basis for the whole registration system is that you have some combination of the account holder or the registrant—the account holder acting as an agent of the registrant, basically—providing information into this registration system.

And the obvious thing that has not ever been said explicitly in any of the documentation is that any of the parties who are named—whether they're the account holder, the registrant, or the admin or tech or billing contact or whatever—must be informed about the fact that they've been named, must be knowledgeable about what the responsibilities and authorities associated with that rule are. And with that in place, this whole issue of consent essentially becomes moot because it's all contained within their relationship

prior to and independent of anything that the registrar is involved in.

So, by the time the registrar is informed of and is given this data, it's inescapable that there is no issue for the registrar to deal with. It's been dealt with by the registrant, and everything else melts away.

KEITH DRAZEK:

Okay. Thanks very much, Steve. I've got some other hands that have gone up, Volker and Becky included. I do want to note that the group and the language that's in the current document, the current write up, is based on ... There are building blocks underneath of it with regard to Phase 1 and Phase 2 in terms of what we're focusing on.

But let me just turn to Volker to Becky. And Steve, thanks for that input. Volker.

VOLKER GREIMANN:

Yes, thank you. And I appreciate Steve's comment there because he describes an ideal that we very much wish to be the case. But as a registrar on the front line that deals with the registrants and other parties that are named in the WHOIS, this very often does not meet the reality of what's going on.

Just as an example, employees for companies registering domain names on behalf of the company name other employees or officers without their knowledge on a regular basis. Named contacts are not being removed or updated after the person

leaves the company, thereby rendering any prior consent that might have been given moot for us. And finally, as a registrar we cannot really rely on a such consent given to a third party because we're not the recipient of that consent and we do not know whether their consent has been obtained in a way that is compliant with GDPR.

So, therefore while this is a very nice ideal where all the problems melt away, that would be very fine and very nice. But in reality, this is very often not the case, and therefore I'm very hesitant to base our policy on ideal situations. Thank you.

STEVE CROCKER:

Yeah. With respect, I'm going to push back very hard on that. And, Keith, I'm just going to insist here. If there are breaches in the arrangement that I've described, those breaches are far more serious and far broader than anything related to GDPR and anything related to the registrar relationship.

If somebody has been named in a role that they did not agree to, they've got a serious problem within the organization. And it is separate and apart from the small matter of whether or not the registrar has been informed properly [over] that data. And to bring the registrar into what is fundamentally an internal business issue within the organization is just a complete overreach and an unnecessary involvement.

You can imagine the same thing. What would happen if, on the public website, somebody were named as a contact for complaints in an organization and they've never been informed about that? All

hell would break loose. So, we have essentially the same situation here, and I think that trying to observe that there are breaches in practice does not create a requirement and should not create a requirement for the registration system to go fix what is fundamentally a much more fundamental issue within the organizational structure.

Now, there may be some important things to do in terms of education, in terms of providing a sound educational documents, if you will. But it doesn't change the fundamental dynamics that you've got a broken system here if you try to put the registrar in the middle of fixing what is bad practices within an organization.

KEITH DRAZEK:

Thanks, Steve. And thanks, Volker. I do have a couple of folks in queue, and I also want to flag something that Berry typed into chat which is a more explicit point that I was trying to make which is that there is some history here in that from Phase 1 the requirements are different than they used to be, specifically around admin contact not being a consensus requirement. Tech contact is optional, and billing contact was not in scope as it relates to WHOIS queries.

It doesn't preclude contract parties from using these contacts. It's just no longer requirement as part of the RDDS once Phase 1 is implemented. So, Berry, thanks for adding that it. It captures where I was trying to go with making sure that we as a group, at this point, are focused on the scope of our work, the scope that we're building on.

And I've noted that Sarah has also put in chat that [she's] not entirely sure this is within scope at this point. And we will shortly turn to the document that we need to be focused on.

Let me turn to Jan and then to Volker. Thank you. Jan and then to Volker Thank you.

JAN JANSSEN: I just want to say that I agree with everything that Steve has just said. And also, the scenario that Volker was describing is a scenario that has been considered in the legal memo that was provided to this working group. And it was that there was sufficient there to have a complaint mechanism in place. So, really, I would appreciate that we considered the documents and that we are not trying to revise the actual language that's in these legal memos. Thank you.

KEITH DRAZEK: Thank you. Becky, I saw your hand up earlier and then it went down. Do you have something you'd like to add at this point?

BECKY BURR: I think it's probably better if I just respond in writing to Steve's comment and now to Jan's comment. I understand what both of them are saying. I just think there's some nuance that may be missed here, but also I am not sure that this is the priority of the moment.

KEITH DRAZEK: Okay. Thanks, Becky. Appreciate it. And feel free to jump back in, if you like, at any point.

Stephanie and then Volker. And then we probably need to move on to the document before us. Stephanie.

STEPHANIE PERRIN: Thanks. I'm just going to push back on some of what Steve said. With great respect, I understand the argument here, but ICANN, in a sense, has been the author of its own misfortune in this regard. You cannot establish the DNS system of data management for 20 years ignoring law—ignoring legal advice, ignoring data commissioners, ignoring the plight of individuals whose data has been published and they've been scammed or harassed or whatever—turn on a dime and then say, “You're going to win in court because you have made this correction and informed people.”

That's not the way it works. People have a vague understanding of things being out there. They [inaudible] extremely careless, as Volker has pointed out, in who they name and how they manage their domain name registrations. And at the end of the day, it is now the contracted parties who are liable for that. And the liability is ...

Once again, I'm sorry to be a painful repeater of this point, it's not just about the money. Yes, the money has made ICANN change its mind on whether or not to comply with law, but there's also reputational damage. If they get dragged through a complaint to the data commissioners on this and the entire matter is

investigated ... And I'm including all the data commissioners not just the ones that are within the GDPR and will delegate to the named data commissioner. I'm talking about the other ones, too.

It does reputational damage. It makes a mess. Nobody's going to understand it because if we don't understand these things after how many years of pounding it out here, then how do you expect a low-level employee in one of these places to understand it? I don't want to go on but, really, there has to be some understanding of the threshold of work as we turn this ship around and explain what's going on. Thanks.

KEITH DRAZEK: Thanks, Stephanie. Volker then Hadia.

VOLKER GREIMANN: Yes. Stephanie made some very good points, but I did want to come back to something that Jan said with regards to the document in hand. I read the legal memo, and reread it, and read it again, and then read it a couple more times. But one thing that I didn't find was anything that said that there is no risk to contracted parties with any of these processes. And that was basically what I was looking for. No risk. It says low risk in some cases, but low risk still means risk.

So, if there's a 50% chance of a company getting a \$1 million dollar fine or a 5% chance of a company getting a \$1 million fine, or maybe even half a million, just because it's lower risk—what do I know—it's still a risk that we have to face that we are not willing to bear. As long as there is legal liability risk for us with any

requirements that come out of this PDP, then we're going to have a problem.

Guidelines are something different, but even then, ICANN would be in a very bad position if they provided guidelines that expose contracted parties to risk. Therefore, the legal document is helpful in a way that it states potential ways to reduce risk. And that is helpful for contracted parties to read and make their own risk determinations, but it does not provide any guidance with regards to things that we can safely do without having any risk. And that is problematic.

That is why I'm still feeling very uncomfortable with making any binding regulations based on those memos. Thank you.

KEITH DRAZEK:

Thanks, Volker. And Hadia, I'll turn to you next. But I do want to just interject and say [that] what we are talking about here is the development of guidelines or recommendations for contracted parties who choose to differentiate. Right?

And so, that's the work that we're focusing on today. From that, we will assess and determine whether there is an opportunity for requirements through a consensus policy process to update existing consensus policy on this topic. But right now, we're focused on recommendations and guidelines for registrars who choose to differentiate. So, let's make sure we keep our eye on the ball.

Good conversation so far, but we're really trying to drive this document and this text and this language towards a

recommendation that could, and hopefully will, generate consensus among the group.

Hadia, you're next. And then we will move to the document.

HADIA ELMINIAWI:

Thank you, Keith. So, I wanted to respond to Stephanie's concerns and Volker's concerns as well, which we all share. You could definitely have the personal information of someone in the data of legal persons, and it could be published by mistake. And for that, what we are saying [is] that making a distinction between natural and legal persons is important and puts you at a lower risk. This is exactly what the Bird & Bird memo said.

So, if you actually ... We definitely all agree that some legal persons will want their data to be published in the RDDS. And for that, the only option that they have is the consent. However, if you make a distinction and their data can be available through self-designation, that puts you at a much lower risk.

And Bird & Bird even goes further to say that a contracted party could be liable only if they fail to respond to a complaint. And this addresses the issue of employees naming other employees without their knowledge and having their personal information in there, and then by mistake this data is published. Again, if you apply self-designation, you are at a much, much lower risk. Thank you.

KEITH DRAZEK:

Thank you, Hadia. All right. Thanks, everybody. We're going to turn to the document now, and I'm going to hand it over to Berry here shortly to tee it up and to introduce it.

But, again, I do want to thank everybody for the input that you've provided to the documents and to the conversation on the list. But, just again, to reinforce. The text and the language in the write up in these documents is forming the basis of what I hope to be the text of an initial report, and it's really important for us to focus on this now. On the list today, I think we saw some reintroduction or some recapping of stuff that we've talked about previously.

And look, we're trying to bring the group together here around some, hopefully, consensus texts and consensus language. And it's really important that we focus on this text, and if folks have concerns or problems or challenges with this text, now is the time to be flagging that. But if you do have concerns, please bring alternative suggestions.

Berry, let me hand it over to you now and we'll get right into it.

BERRY COBB:

Thank you, Keith. And just to pick up on what Keith said, we'll be getting to the write up after we review through the table. And to reinforce, yes, this document is the core of what will become the initial report. There will be additional components to this that talk about or document the deliberations the group as had, other work products that have built up to where we focused our attention within this document.

And some of the next steps that we'll be working towards through the end of April and into May are, what are the core draft recommendations that describe the essence of this write up or this proposal that's being formed? So, without a doubt, the intention needs to be focused on this work product.

For today, this section of the agenda, as I posted a link into the chat, is this write up or this matrix comparing the latest version of the write up in column one with column two being the extract of legal advice we've received from Bird & Bird for each component of the write up where we found a relationship. And then the third column are these questions where staff didn't have an idea or a suggestion—a proposal—to put forward.

And these questions are really what this group needs to focus on today, and this is why what you're viewing here is really just what they call the viewing mode. A lot of the comments that were submitted ... We definitely appreciate that, but most of the comments focused on the guidance around the write up itself. And we really need to be focusing on the legal advice that we got and how that can enhance the write up.

So for now, we're just going to be in this view only mode as we work through the questions that are on the table today. We're not putting it in suggestion mode, as there are a lot of redline edits that will distract.

After today's call, this document will be shared again for the respective groups to continue to contribute to this. And then, of course, the outputs from this table will go to enhance our primary write up over here.

So, I'll turn it back to you, Keith. Thanks.

KEITH DRAZEK:

Thanks a lot, Berry. And thanks for the framing of that. And you're absolutely right. I'm going to take a chair's prerogative here. I'm going to take a moment and turn back to Milton and to Milton's input on the list today or yesterday—I can't remember if it was last night or this morning—about the principles. Because I think Milton's principles, as suggested in his e-mail—I hope everybody's had a chance to review that—are an important framing for us moving forward if we hope to reach consensus.

I also think that Milton's principles, as suggested, are not inconsistent with or are not incompatible with the document that we have before us that we're reviewing. And I think that, as we go through the document and as we go through considering the legal feedback from Bird & Bird, that it provides a good framework for us to consider. But I want to make sure that we're, at one point, looking at the bigger picture, but also not missing the opportunity to get into the substance here in terms of the actual text.

So, Milton, I want to hand it over to you now, if I may. If you could just give a synopsis of what you put in your note with, hopefully, an eye towards using that to make sure that we're all on the same page when it comes to the actual text before us in the write up that staff has compiled with everybody's input over the last week and a half.

So, Milton, over to you.

MILTON MUELLER: Sure. Thank you, Keith. I'll try to do that and try to do it as quickly as possible.

So, there were four principles. If you read them carefully, you realize that they are, in effect, kind of a logically tight system that if you reject one, you're going to lose stakeholders on other ones. So, I'll explain that as I go through.

So, the first one is the very basic one. Do we want to make a legal/natural distinction? And how do we do that without compromising privacy rights? So, I still sense that there are some people who are actually not fully in agreement with that principle. And, of course, if I just had my ideal world, I probably would not want to make it at all for various reasons, but we're trying to find a space for agreement. So, let's say we—even those of us who don't like the idea—we accept the idea that we need to make the distinction and find a way to do it without compromising privacy rights.

The second thing is, the registrant should be able to self-designate as legal or natural with no burden of authentication placed on registrars or registries. And the second principle is important because you're going to lose the support of NCSG and probably also the contracted parties unless you have principle two.

And there are various reasons for that that we can discuss, but the important point is [that] many of us can accept making this distinction and having to be part of the record if it is self-designated and there's no top-heavy and incredibly expensive mechanisms for authenticating that self-designation. And, of

course, we just have to accept the fact that some people won't tell the truth in order to conceal their data. That's going to be a problem in any case.

The third principle is, we need to do a second step in the process of designation to ensure that the people who want to designate themselves as legal persons but have personal data in their record are warned about that and told to either take it out or remove their designation as legal person. And, again, that's a privacy protection mechanism that's important to both the liability of the contracted parties and the privacy rights of the users.

And then, the fourth principle is [that] we have to give the contracted parties flexibility to minimize their liability by implementing these principles in whatever way they think will minimize it. But they, of course, have to conform to the other principles in so doing.

So, that's it in a nutshell. And I think if we don't agree with those, I think the whole bundle is going to fall apart. And I have had problems getting into the weeds of all these debates about what the Legal Committee says or all these wording debates, without ... If we don't agree on these four principles, I think we're just going to keep batting at each other with these minor disagreements that are going to be all over the place. But if we can come to agreement on these principles, we can refer to them as we're working out the details of the language.

So, I'll turn it back over to Keith.

KEITH DRAZEK:

Melton, thanks very much. I really appreciate that. Thanks for the synopsis and for your input.

I see that Steve and Volker have their hands up. I'm going to turn to both of you, but then I want to hit pause on this discussion—thanking Milton for the intro—and a hold the further engagement once we get to the write up documents. Because the table that's before us, or shortly before us that we're turning to, is really about the legal advice.

And so, I want to make sure that ... Thank you for the framing of it. We need to focus on the legal advice. And then we will get to a discussion of the write up next.

So, Steve, you're next. Then Volker. And then let's move back to the Bird & Bird responses.

STEVE CROCKER:

Thank you. So, the question that has been posed is do we agree with the four principles that Milton has put up. My view on this is, basically yes, but with two caveats. I have no problem with principles one and two. Principal three suggests that the registrar needs to do some additional checks to see if the personal data ...

I don't think that's the appropriate approach. The appropriate approach, in my view, is to inform the registrant that if personal data is included, they may opt not to have it published. Full stop.

And then with respect to four, there is too much wiggle room in the way that that's written, and it can be misunderstood to be giving the registrar latitude to develop its own criteria for deciding

whether somebody is a legal or a natural person. There are plenty of other ways in which flexibility is indeed required, but the wording as written here doesn't distinguish between the business processes of when you find this out and how you inquire about it versus the fact that the fundamental requirement is the soft declaration from the people who actually know what the answer is—mainly the registrant or the account holder. Thank you.

KEITH DRAZEK:

Thank, Steve, very much. And absolutely, clearly, details matter in terms of the nuance. But I think Milton's suggested principles are important for us to all consider.

So, Volker I'm going to hand it to you. Then we're going back to the Bird & Bird memo or feedback.

VOLKER GREIMANN:

Thank you, Keith. Before I get to Milton's code, Milton's proposal, I would like to respond to Steve real quick. When he says that the option not to disclose, I think that's having it backwards. The default should always be not to disclose, and in order to disclose, certain requirements will have to be met, certain conditions must be present. And if those conditions are present, then we can move to what I see as an option to disclose or even to publish in some case. But publication obviously would need much stricter safeguards than disclosure. But the default would be always [to] not disclose, as it is today.

With regard to Milton, sadly you lost me on principle number one when you say that the distinction is relevant. That case has still not been made.

The other points and the principles, I think they have some interesting points. Point three probably needs some debate of what checks have to be in place. And I don't understand this as checks by the registrar to ensure this, but rather certain requirements that have to be met to ensure that this is actually the case. So, I think that is something that can be worked into a guidance principle.

Self-designation, I think, is the only way forward. I agree with you there. And that's all I wanted to say on this topic. Thank you.

KEITH DRAZEK:

Okay. Thanks, Volker. And thanks, everybody, for the discussion.

With that, I'm going to turn back to the Bird & Bird table or the table reflecting the Bird & Bird feedback. And, Berry, I don't know if I should hand this back to you at this point in terms of helping to run through this. Obviously, we've got the questions here as well that were circulated to the list.

Berry, how do you suggest we proceed?

BERRY COBB:

Thanks, Keith. I think we just really start at the top, just a quick summary of the component of the write up. Then I don't think we have time to read through the actual individual component

extracts from the legal memos. Hopefully, most of the group has done that in preparation for our discussion today. But then let's mostly ask the question here and seek verbal input about whether the advice actually helps enhance, or whether there are opportunities to enhance this component of the write up.

KEITH DRAZEK:

Okay. Thanks, Berry. I appreciate that. And, Becky, certainly feel free to jump in at any point here along the way to help us move forward and navigate this. But let me just, I guess, ask and open the queue if anybody has any initial feedback/input/commentary/views that they would like to share on the table, on the language.

And to Berry's last point, are we seeing things here that are going to help us move forward in terms of clarifying questions?

Volker, I see your hand. I think that's an old hand if I'm not mistaken. And I'm just going to open it up at this point. Does anybody have anything that they would like to contribute here? Okay. Don't be shy. All right. Silence is not always golden.

So, Becky, if I could turn to you, if you don't mind. Oh, I see Brian has a hand. Becky, bailed out by Brian. Brian, go right ahead. Thank you so much.

BRIAN KING:

Thanks, Keith. I'm sorry. I had some connectivity issues earlier and just getting back plugged in here.

On this one, though, it seems to me that this is already at least contemplated by that RAA section. That was the feedback that I provided previously. The guidance should be clear. I guess we could help here within the EPDP. I don't know if this is the best use of our time. And the registrars are going to want maximum flexibility to do whatever they want anyway.

But I think this is already covered—is what I'm trying to say, long story short—by that RAA obligation. Thanks.

KEITH DRAZEK:

Okay. Thank you, Brian. Any reaction? So, Stephanie, I see you're contributing in chat. I don't know if that's to the current point or not. Feel free to jump in.

So, I guess the question is, are there any concerns about adding references to requirements in relation to consent? I think, with the section that we're on here ...

Let's see, yeah. So, that's the question right there that's highlighted on the screen. "Consider adding references to information requirements in relation to consent." This is in response to a memo. And Stephanie's saying that's an old point.

Becky, thank you very much. Go ahead.

BECKY BURR:

One thing I would say here is I think that this is directly relevant to the argument that Steve was making. So, I do see it as ... I'm not sure that it wasn't already encompassed in the advice, but I

wonder if making this point clear regarding who is able to consent, and who the registrar or contracted party is entitled to rely on for consent, makes a difference.

KEITH DRAZEK:

Okay. Thank you, Becky. And I see that there's some other input going into chat. I'm really going to ask people to contribute on the call. Please speak up. This is our opportunity to discuss all of this and to advance our work here. The chat is great at times, but this is really an opportunity for dialogue.

Volker and then Stephanie. And then, Becky, I think that's an old hand.

VOLKER GREIMANN:

Yes. Thank you, Keith. To the point here is that I absolutely basically agree with what the comment states. I just would like to point out that this is a lot harder to implement than it may sound like since ensuring that the registrants understand something means something different for each registrar business model because ...

For example, for our registrar who serves customers in nearly every country of the world—I'm not sure if we're missing one or two, but there you go, anyway—this means that we would have to furnish this explanation in every language of the world. And, yes, it applies to those outside of Europe because we are in Europe and therefore GDPR applies to everyone for us.

So, implementing this is going to be a heck of a job, and might be even too difficult to make it feasible. Thank you.

KEITH DRAZEK: Thank you, Volker. Stephanie and then Laureen.

STEPHANIE PERRIN: Once again, I'm repeating myself. But I just would like to remind people that the perspective with which we are examining this potential here is totally skewed at ICANN. If you're coming from a data protection perspective as I am ,you're looking at this and going, "Wait a minute. You've got data controllers who are bending over backwards to preemptively disclose to the public personal data without even getting a request first, based on 20 years of violating the law."

So, there's a gestalt at ICANN that the WHOIS must continue. And we are trying to find ways to make those who are liable and responsible to their customers to protect their data ... We are looking for ways to get them to publish it regardless of the risk. For third parties who have no liability in this situation, it won't be their fault if there's been a mistake or a breach. They'll just be the happy recipients of data that was illegally released.

At any rate, I would invite you to consider the perspective that a court or an individual or a harmed party is going to take on this. And put that in the context of the fact that ICANN is operating a monopoly that normally would be run by governments in the management of such a telecoms resource, and has been

entrusted in the public good, in the public safety of running the DNS.

And while the argument is that if they don't get this data for law enforcement purposes, all hell will break loose, the reality is that you're publishing data that is causing all hell to break loose in terms of spam and scams and all the rest of it. Thank you. Just a reminder.

KEITH DRAZEK: Thanks, Stephanie. Laureen.

LAUREEN KAPIN: Thanks. And I'll start off by saying that I have a very good appreciation of both the privacy and public benefits involved in this data. And we're very fortunate to also have my colleagues Melina and Chris, especially Melina, who primarily has a data protection background.

And with that in mind, I think that this write up actually is very good at balancing compliance with the GDPR and protecting the personal information of individuals by incorporating steps that, basically, [are] confirming that there isn't personal information about to be disclosed.

So, I appreciate Stephanie's fervor in wanting to make sure that we are looking at things from a privacy perspective, but where I would disagree is her point that this creates undue risks, when I think it's the very opposite. This procedure screens out personal information and only discloses information that isn't subject to

protection at all under the GDPR. And that's been the whole thrust of what many of us had been seeking through this Phase 2A process.

The one issue I would raise that I think is absent here—and perhaps this does intersect a little bit with Stephanie's concerns, but I'll go ahead anyway because I think that the legal memos support it—is that Bird & Bird's last memo specifically opined that much of the information, even if it is personal data, may be very low-sensitivity personal data, i.e., it relates to work information, a work e-mail, rather than a personal e-mail.

And thus, even if it were to be disclosed inadvertently or deliberately, it still wouldn't create undue risks. And I would say since we have that guidance, that is something that could be incorporated.

That is a more minor point. My major takeaway is that I think that this write up actually does do a good job of incorporating the desirable safeguards and creating a scenario that would be, in Bird & Bird's view, a very low risk to the contracting parties.

Now, the issue of costs and feasibility. I freely admit that I certainly am not the expert on that. Registrars would be, which is why I think that the concept that has been identified of maximum flexibility should absolutely be embraced here, as registrars are the experts in that area.

KEITH DRAZEK:

Thanks, Lauren. Melina, I'm going to turn to you. And then I'm going to take the floor back and refocus us on the nine questions

that are listed in our agenda here that were circulated to the full list, and the table that we have on the right side of the screen, and the question before us is, is there any opposition or concern about adding references to information requirements in relation to consent?

So, I probably did a poor job of setting us up for this conversation today, but we have nine questions, we have a table. And the goal, or the hope here, is to get people's feedback on these specific questions so staff can then take away and do an update or an iteration here.

So, Melina, I'll hand it to you. We're having a bit of a high-level and even maybe a philosophical discussion here, but we do need to bring it back to these specific questions, what might be considered the sausage making of our initial report.

So, Melina. And then, Alan, I saw your hand go up. I'll let you in queue, and then we'll move back to the discussion of the substance. Thanks.

Melina.

MELINA STROUNGI:

Thank you very much, Keith. I will try to be brief. I just wanted to compliment on Laureen's points and also share Stephanie's concern to assure everyone, because I'm also new to the group, that indeed I have a data protection background. I have worked with data protection authorities. We often also seek guidance from [inaudible] of the commission, who are the GDPR experts.

And I just want to assure that privacy of individuals is at the very core of our objective. We indeed want to achieve a balance between public service, public interest, and also protecting data of natural persons.

So, the solution that we are proposing is basically disclosing nonpersonal data of legal persons. This is important for the purposes of public interest, and at the same time, really protects fully the personal data. So, I just want to make clear that, in no event, our purpose is not to recklessly publish any personal data. This is not our objective. So, in that perspective, I do agree with Milton's principles which, perhaps, it could be also useful to include in our proposed guidance.

For the document that is currently projected in front of us, I think a lot of people have already made some comments directly on this document.

And just a final point is that I do understand the contracted parties' side of things. Right? It's the business side of things. So, according to the business side of things, they're like, "Okay. We understand the public interest [inaudible]. We understand that this solution may be of benefit to everyone. But what do we gain from this?"

I completely understand this point of view. There are benefits for that, and we can have some discussions on what the potential benefits could be after discussing the nine of questions if you want, Keith, because I don't want to derail the discussion. But just to also note that our approach, which is distinguishing between

legal and natural entities, is much safer than the approach of distinguishing directly between personal and nonpersonal data.

There is a reason why the GDPR makes this distinction. It's not something that we have not considered or carefully assessed with our privacy department. And there is also a reason why Bird & Bird mentions that there is a low risk relying on self-identification of registrants as legal or natural. I want to stress that this low risk only relates to the scenario where there is distinction between natural and legal entities. In cases that we skip the first step, then I see a lot of risk from contracted parties.

I see the risk of having a natural registrant who is not in position to understand—I don't know. For instance, they perceive that the data they provide are nonpersonal while, in reality, they are personal. And then have an automatic disclosure via the SSAD. In the scenario, the liability would be on contracted parties.

So, really, I think what we propose is much, much safer in compliance. And, in any event, I want to remind something that has been repeatedly stressed by everyone. Given the time constraints, we should really remain focused on the scope of the Phase 2A exercise, and really focus our efforts on that which is the distinction between legal and natural entities.

Anything more than this, I think it's not very productive at the current stage. Thank you.

KEITH DRAZEK:

Thanks, Melina. I want to note that Berry has typed into chat, again, some further framing here that the reason we're going

through this table and these questions is that it's tied directly to the write up language. And so, it's important for us to go through these questions to help inform the development of our initial report draft.

So with that, I'm going to turn to Alan. Alan, thank you very much. And let's turn now to the discussion of the question before us, whether there's any concern about adding references to information requirements in relation to consent.

ALAN WOODS:

Thank you, Keith. I promise there is a segue here. It's just something that Melina said that resonated with me, and there is a segue to the question. And I think it's very important, and it was something that Becky said in the chat earlier, as well.

The legal advices that we received, there are varying layers within that, and the varying levels of very much dependent on safeguards. And we do need to ensure that we view the legal advice that we have received through the vision of those safeguards.

And that kind of comes to one of these things. One of the safeguards that was proposed was, of course, the sending of an e-mail to the contact before the release or the publication of the data from the legal person.

And this brings us right to this question about considering entering a reference to the information requirements. Personally, I think that would be bordering on our guidance providing legal advice. We can give ... I think we don't need to reinvent the wheel here. I think there are already very clear guidelines from the European

Data Protection Board on consent, [inaudible] report of May 1, 2020. And I can throw that into the chat as well.

I think it would behoove us more—not to use the word “behoove”—but it would behoove us more to focus on that which is already out there when it comes to guidelines on consent and encouraging people to ensure and consider how you would put in those layers of consent, and how you would ensure that consented property obtained, rather than specifically [stating] what we could do in an instance. But I understand we’re doing it from a guidance point of view. But, again, we need to keep that bright line between advice and guidelines.

So, in answer to question one, I would suggest pointing out the guidelines that are they are already as opposed to us providing specific ones.

KEITH DRAZEK:

Thank, Alan, very much for the concrete point and recommendation on the language. Very helpful. Anybody else like to get in queue at this point?

Volker, I saw your hand go up earlier. If you'd like to weigh in, feel free. If anybody else would, please do.

VOLKER GREIMANN:

Yes. It was more a general response to some of the things that were said, but nothing that was relevant to the task at hand. So, I removed my hand. Thank you.

KEITH DRAZEK: Okay. Thank you very much, Volker. Much appreciated. Okay. Going once, going twice. Any other further commentary on this particular question before we move to the next?

Seeing none. Thank you very much. Okay, so question number two is—let’s just make sure I’m in the right spot here—“Consider making more specific that the registrant, or the data subject, needs to have an easy means to correct mistakes.” Would anybody like to weigh in on this question?

Okay. I’m not seeing any hands. Oh, Laureen, I’m sorry. I missed yours. Go right ahead. Thanks.

LAUREEN KAPIN: That’s okay. I would support that. That is one of the specific safeguards. I’m not sure how explicit that is here, but I don’t know why we wouldn’t put that in. That is one of the safeguards that Bird & Bird had originally recommended, unless I’m missing it. In which case, I’ll withdraw my comment.

KEITH DRAZEK: Okay. Thanks, Laureen. Becky, you’re next. Go ahead.

BECKY BURR: Yeah. And, again, I just wanted to point out [that] this is another example of the multi-layered set of safeguards Bird & Bird was dealing with and has advised.

KEITH DRAZEK: Great. Thanks, Becky. And thanks, Laureen. The floor is open for anybody else to discuss question number two. Alan, go ahead.

ALAN WOODS: Thank you, Keith. I suppose one of the things ... I did reference earlier, of course, Steve, the letter from the European Data Protection Board back in 2018. One of the things I wanted to consider ...

I'm not saying this is a bar because, obviously, safeguards will help minimize this. But one of the things we do need to consider is this concept of unlimited publication. If a mistake is made, it's very hard to rectify that mistake if the publication has occurred.

So, one of the things we could be thinking of ... And again, in layering these safeguards in the guidelines, saying that there must be means by which to mitigate, as best as possible, erasure request, for instance. We can't tell the world at large that we shouldn't have published this or a mistake was made, but we could work into the process, of course, cost of implementation, etc., pending that.

There must be a better way of being able to present this information without just displaying it to the world at large. So, I want to just put that as another thing when we're considering the safeguards and about rectifying mistakes, that it's very hard to rectify something that has been published to the world at large, as well. So, just to be clear on that one.

KEITH DRAZEK: Yep. Thanks very much, Alan. Another great point. Laureen, you're next.

LAUREEN KAPIN: Just following up on Alan's point, which is certainly a fair one. I'm wondering if ... And we've spoken about this in slightly other contexts. But if we had some sort of confirmation ability to correct quarantine periods, so to speak, that might provide an additional layer of security, i.e., making sure that the registrant confirms [that] this is what they want published, then giving them some other extra time period to make any corrections before things are actually published—if that's consistent with the designations that are made. So, just a thought there.

KEITH DRAZEK: Thanks, Laureen. Okay. And I think that is reflected in question number four which is on this same page in the table. So, I think that's an important point.

Actually, since Laureen has mentioned it, let's jump to question number four. And then we'll come back to question number three. I'm going to take that question number two has been addressed at this point, in terms of our dialogue today. So, let's move to four.

And it is, "Consider adding guidance that sufficient time must be provided for the registrant, or data subject, to respond to the verification request, but that there is no need to wait for an

affirmative response unless an e-mail bounces, in which case the registrar should not proceed with publication.”

So, that's the question. I think Laureen spoke to that and teed that up. So, I'm going to open the floor to any discussion on question number four.

Alan, thank you.

ALAN WOODS:

[inaudible]. But, yeah, so the one that strikes me on this one straight away is the concept of the flipping of the opt-in versus the opt-out which, of course, when we're having conversations on consent, we need to be very clear that the GDPR supports [that of] an opt-in not an opt-out. So again, when we're considering this, we need to be mindful of the fact that [inaudible] is not [inaudible], and we need to be a bit mindful about it in our consideration.

KEITH DRAZEK:

Yep. Thanks, Alan. Laureen.

LAUREEN KAPIN:

Here, I would disagree with Alan because the Bird & Bird guidance actually was very specific about this. And this, also, is going to come into play I think almost exclusively when there isn't personal information involved. Which means the sensitivity level in terms of protection is nil because the information isn't personal data and it should be published. That said, I would agree with the nugget here in question four, which is that you do have to leave

time and opportunity for someone to respond. And that should be a reasonable amount of time.

The issue that's flagged properly with the e-mail balance is that we do need to take into account whether the communication attempt is a meaningful one. And, of course, if there's an e-mail bounce back, that means that it hasn't gone through.

So, I would agree with adding guidance allowing for sufficient time. I don't think there should be an opt-in here. The whole purpose of the safeguards is to make sure that people are informed and can take action to prevent their personal information from being published.

KEITH DRAZEK: Thank you, Laureen. Chris, you're next.

CHRIS LEWIS-EVANS: Thanks, Keith. Just to highlight another point on the opt-in aspect. I think this is sort of a secondary stage. So, we've already had the opt-in phase at the first instance where they're providing the data. So, this is a double check, so to speak, rather than the only mechanism by which the data was going to get released or published. So, I don't think it's necessary for us to be overly mindful of the opt-in or opt-out because I think that's covered off in the first phase.

The second part I wanted to raise was the e-mail bounce. I think that brings up another issue, in my mind, in that the data is not accurate and therefore you're probably going through other ways

of, well, how do you contact this registrant in any means. And then, does that domain name need to be thought about?

So, that's just something we might need to think about if we do add language. Thank you.

KEITH DRAZEK: Thank you, Chris. Alan, you're next. And then I'm going to turn back to question number three which is obviously related.

ALAN WOODS: Thank you very much, Keith. I just wanted to actually just go back to what Laureen said there. And apologies, I read that incorrectly. So, she's absolutely right. If we're talking about that this is where a person has indicated that it does not include any personal data, yeah. I mean, there is probably too fine a line that I was drawing there. So, I just wanted to agree with Laureen [inaudible].

KEITH DRAZEK: Thanks, Alan. And thanks, Laureen. I see Becky noting in chat, also, says, "Only true if data subject is also the data source." So, I think that's a good point, an important nuance.

Let me just take a moment to say [that] this is exactly the kind of discussion and dialogue that we need to be having. And so, thank you very much for those who are engaging. And I'm inviting everybody to do the same.

So with that, let's move back to question number three, and I'll read it. "Consider adding a step that, following registrant

confirmation, that the registration does not include any personal data. The registrar should contact the provided contact details to confirm that no personal data is present.”

So, opening the floor. Okay, anyone? Brian, go ahead. Thank you.

BRIAN KING:

Hey, Keith. Thanks. This is a good idea. It's good guidance, I think. I wonder ... I don't have it up in front of me. I should have maybe pulled it up first. This sounds a lot like the existing requirements in the WHOIS Accuracy Program Specification to the RAA. So, not only is this good guidance on its own, it's probably really close to something that a lot of registrars ... I know a lot of registrars already do this, in practice anyway, sending an e-mail to confirm the information to the e-mail address that was provided. So, good, probably on two fronts there. Thanks.

KEITH DRAZEK:

Okay. Thanks, Brian. Milton and then Melina. Thank you.

MILTON MUELLER:

Yes. Thank you. I don't know how you ... When you say, “contact the provided contact details,” that's a weird formulation verbally. What do you mean? You contact the person using those contact details? And do you ask them, again, that no personal data is present in the registration data? It's just unclear to me what this means.

KEITH DRAZEK: Yeah. Thanks, Milton. I think the language could probably be updated a bit. Maybe the word is “entity” rather than “contact details.” They should contact the entity via the provided contact details, if that makes sense because [inaudible].

MILTON MUELLER: They should use the provided contact details to contact the entity. Is that what they’re getting at?

KEITH DRAZEK: I believe so. And so, maybe if staff would like to weigh in here, feel free to do so. In the meantime, we’ll turn to Melina. Thanks.

MELINA STROUNGI: Thanks, Keith. Indeed, I agree with Milton that this is not very clear. So, it will be good to clarify the language.

And then, I also agree that it’s a good idea to [inaudible]. I think it also aligns with the principles also described by Milton and the second step that also was in that proposal.

And, of course, to mention that it makes sense to ask this question in case the registrant is a legal person because in the case of the natural person, this question is too [inaudible]. You should assume that all their data are personal. But I still consider it a good idea to [inaudible].

KEITH DRAZEK: Thank you, Melina. I see that Thomas Rickert has put into chat saying, "I think the additional step increases the risk of a registration not going through smoothly." Sorry. Just scrolling, sorry. "It was always possible there is no response or confirmation. I think that's certainly borne out by experience with e-mail communications to registrants.

And then I have Chris and then Brian in the queue, and Stephanie's also contributing in chat. Please, folks, feel free to jump in the queue.

Chris.

CHRIS LEWIS-EVANS: Yeah. Thanks, Keith. So, just because a couple of people have said they are not really clear on what this is saying, and just to see if I've got the right handle on this. The way that I see this is that someone registers a domain, adds a technical contact and puts techcontact@company.com, and ticks the box that says, "This is a legal person. Free to publish their information."

And then I think this safeguard is that, as part of the confirmation process, an e-mail should go out to that techcontact@company.com and say, "You have been identified as a legal person, and your data will be published. If you want to correct this, then this is the process by which you can do that."

I think that's just a good extra step that provides that additional safeguard of accidentally getting personal information in there that's been identified as a legal entity. So, that's my understanding, and I think it's good step. Thank you.

KEITH DRAZEK: Thanks, Chris. And so, yeah, we'll make sure that we take the step to clarify the terminology here.

I'll note that Berry has put into chat language from Bird & Bird that I think frames this question a little bit more. So, if folks could please take a quick look at that. And then I'm going to turn to Brian and Stephanie in queue. If anybody else would like to get in queue, please do.

Brian.

BRIAN KING: Thanks, Keith. Hopefully, we can move along with this. I think everybody understands this correctly now, and I just put in the chat the language from the WHOIS Accuracy Specification that requires this, So, I would say 90+% of registrars already do this because it's a contractual obligation and also a good idea. So, maybe we can move on. Thanks.

KEITH DRAZEK: Thanks, Brian. Stephanie, you're next. And then we'll move on.

STEPHANIE PERRIN: Thanks. I'm a little surprised that this is already happening because I really wonder how you manage this on an ongoing basis. It's one thing for the first-time registration. How do you do automatic renewals and make sure that all the contact data is the same person? People move along. You might subcontract your

admin or your security contacts to somewhere where there's data protection law that is different, that provides employee rights. And keeping track of that and revoking the disclosures is a bit of a nightmare, I would think.

So, I'd love to have the contracted parties explain how they do this. Thank you.

KEITH DRAZEK: Thank you, Stephanie. Brian, go ahead.

BRIAN KING: Thanks, Keith. I can speak to that. I represent the IPC here, but I work at a contracted party. I have worked at others. Well, they do it this way, the way that I put in the chat, in compliance with the WHOIS Accuracy Program Specification. And then, annually, registrars are required to send a reminder to registrants to remind them to keep their information accurate and up to date. And that's required in the—oh, it's eluding me—some other consensus policy thing that requires registrars to do that year over year. So, that's how it's done in practice, usually via an e-mail to the existing WHOIS contact. Thanks.

KEITH DRAZEK: Okay. Thanks, Brian. Okay. I'm not seeing any other hands at this point. Berry has noted in chat, referring to the WHOIS Data Reminder Policy. Yep. Thanks, Brian.

Okay. So, we have just over 10 minutes left on our call today. We're clearly not going to get through all of these questions on today's call, and we do have a few other things that we need to get to.

I want to focus on one more question here. Let's see. Make sure we've got that. It should be question number five which is, "Consider adding that the registrar should request the registrant, if self-identified as a legal person, to provide a company registration number."

And so, I see Laureen's hand. Thank you, Laureen. Go right ahead.

LAUREEN KAPIN:

Just quickly. I'm not sure that all companies have a company registration number. So, I think that this may not be feasible. I certainly would welcome the wisdom and knowledge of folks who are more knowledgeable about this. But that is what occurred to me when I read this question.

KEITH DRAZEK:

Yeah. Thanks, Laureen. I think Berry has highlighted some relevant text here in the document.

Alan, go ahead.

ALAN WOODS:

Thank you. Just in the addition to what Laureen is saying. [inaudible] things that [inaudible] as well is, is they're going to be

an expectation that a registrar [inaudible] somehow verifies those numbers as well? It's just adding, again, layers of both cost, I would expect, and complexity. So, we need to be mindful of that.

KEITH DRAZEK:

Okay. Thank you, Alan. And I see that Sarah has reinforced your point in chat. So, thanks for that.

All right. I'm going to draw a line under these questions. We need to move on to the next section, but this highlights—and I need to reinforce—the importance of everybody doing homework and providing input in between our plenary sessions. And I think, with having to move on from this and having not even gotten to the next section on our agenda, I think it reinforces the need for us to probably start scheduling some additional plenary sessions over the course of the coming weeks. We'll come back to that in a minute.

So, let's move now. Let's see. I guess the question is, do we want to focus on B. Yep. I think in light of time with 10 minutes left, let's move down to item B on our agenda, which is consideration of the questions whether any updates are required to the EPDP Phase 1 recommendations on this topic, which is, "Registrars and Registry Operators are permitted to differentiate between registrations of legal and natural persons, but are not obligated to do so."

And so, I'm not asking, or we are not looking for responses to this question now, today. But it is the basis of another bit of homework that everybody on this team has. And the document on the screen is the document that will help each of the groups submit its points

and its views and its input on this question. And, again, it is right here. Is there a need at this point to move from guidelines or to update existing consensus policy recommendations coming out of Phase 1 and/or Phase 2?

Berry, I'm going to stop my narrative and turn to you and see if you've got anything you'd like to tee up for the group on this.

BERRY COBB:

Thank you, Keith. Nothing specific. I think the purpose of this exercise is [that] we're getting close to consolidating, as noted earlier, that this write up is the core substance of what is forming for the initial report.

The next stage after we do our homework, in regard to concluding on the legal advice, to updating the current writeup that I have shown on the screen here, is to slowly start to be—well, not slowly—but to start getting towards actual draft preliminary recommendations for the group to collaborate on that brings up the essence of this write up or this proposal that's being put forward about legal vs. natural.

This exercise is to get us to that point of moving from possible guidance into possible requirements. For lack of a better term, this is kind of putting your cards on the table about what we've created thus far and trying to narrow down the positions across the different groups about where we stand as it relates back to the proposal.

So, each one of these questions are designed to key parts of the write up, and we're asking that the groups respond to these as

part of homework. And we'll be sending some specific instructions about how we want you to respond to these particular questions, but you're going to be doing so in a way that definitely connects back to this current form of the write up.

KEITH DRAZEK:

Yeah. Thanks very much, Berry. I'll just take a note here to say [that] early on, or earlier, in our EPDP Phase 2A work, when we teed up the approach, when we the leadership team and staff teed up the approach of starting with a consideration of voluntary practices or guidelines for registrars that choose to differentiate, there were concerns raised by members of our team, and understandably so, that we would run out of time and that we wouldn't ever get to the question of policy recommendations or changes to consensus policy.

Basically, we have six weeks left or thereabouts, five or six weeks left, as we work towards the development of our initial report. This is your opportunity, and our opportunity as a team, to basically start putting down your views, your group's views, on these important questions as to whether we as a group will be able to move from guidance development, or voluntary considerations, to something more formal in the creation of new consensus policy or updating existing consensus policy.

So, this is really important, and it's really important for the homework to be done on this document as well as the others. And if we don't do the homework, we're simply not going to get to a point where we have solid footing on which to make any recommendations or decisions.

Berry, is that a new hand?

BERRY COBB: Yes, please.

KEITH DRAZEK: Go ahead.

BERRY COBB: So, one thing that I forgot to mention is that, of course, these questions are based around the write up that we currently have on the table. But I also do encourage the groups to be very mindful of consensus recommendations that were created in predominantly Phase 1 and maybe partially in Phase 2, kind of as an example Recommendation 12 that centers around the organization field.

The current consensus recommendation is kind of two parts. The first part is that there's some sort of cleanup exercise for existing registrations. The second part is for new registrations going forward, that if the registered name holder places a value in there, that it triggers a question back to the [RNH] if they want this data published.

The idea of that Recommendation 12 is that it increases the importance of that data element [in related] to the minimum public data set for registration data. So, as a possibility or—and I'm not trying to presuppose any kind of outcome here—but as an example of where this group is getting traction on the self-identification of being a legal entity, could it be possible that this

group would find middle ground—as opposed to it not necessarily being guidance and not necessarily being a requirement? Could the recommendation be to update or provide additional guidance or implementation notes or framing—I’m not exactly sure of the exact text—that could enhance or bolt onto Recommendation 12 from Phase 1; of course, which is still being implemented.

So, the takeaway message here is thoroughly review the five or six recommendations within Phase 1 in the context of what are already consensus recommendations that will become a requirement versus what we're building here, and if, indeed it needs to be a new requirement or guidance or somewhere in between. Thank you.

KEITH DRAZEK:

Yeah. Thanks, Berry. And thanks so much for bringing us back to the history, the foundation, the building blocks that we're working on here. And I think your point there was that we should all be willing to get creative as we review what exists and the path forward. And if that includes perhaps implementation guidance for the Phase 1 IRT, then that could be a positive output of the group. So, thanks for that.

We have just about two minutes left on the call, and so I’m going to draw a line under this and move to a wrap up and looking at the work of the group over the next five weeks or so.

As I noted at the beginning of the call, we have identified a placeholder time for a second plenary session each week to be scheduled for Tuesdays. I am not inclined to schedule that for next

Tuesday. We have it as a placeholder, but I wanted to discuss it with the group here before actually starting to schedule. But I think the following week, we should begin to plan for twice weekly meetings of the plenary to be able to continue to move this work forward.

But noting that that's not in any way going to replace the need for folks to do homework and to do work amongst your individual teams, across teams, whatever it may be, to provide input on the homework into the Google documents, into the actual work offline, if we hope to have any progress within the next month.

And so, I'm just going to open the floor right now for feedback or reaction, but I think starting essentially not this coming Tuesday, but the following Tuesday, we will begin having twice weekly plenary sessions. If it turns out we don't need them because people are doing amazing work with their homework, then we have the opportunity of canceling. But I think this is the prudent step for us to take as we enter the last month, month and a half of our work on an initial report. Let me pause there.

STEVE CROCKER: What time on Tuesdays would that be?

KEITH DRAZEK: Thanks, Steve. I think it's the same time, if I'm not mistaken, 14:00 UTC. Yep. Berry has confirmed that in chat. So, 14:00 UTC.

STEVE CROCKER: Thank you.

KEITH DRAZEK: Thank you. Okay. Any thoughts? Any comments on that before we move on? And again, we're just at the end of our call.

All right. We will confirm action items via the list, and specifically look for homework assignments and specific pointers to exactly where the work needs to be done. If there are any follow up questions ICANN Org, feel free. And then we will obviously look to further feedback from Bird & Bird. I think there's one question remaining, if I'm not mistaken. So, we've got some more work of the Legal Committee to take place.

All right. Any other business? Any last comments before we wrap up? All right. Thanks, everybody, for the good discussion. We've got a lot more work to do, but I do appreciate the constructive engagement here. Thanks, everybody. And we can conclude today's call.

TERRI AGNEW: Thank you, everyone. Once again, the meeting has been adjourned. Please remember to disconnect all remaining lines, and stay well.

[END OF TRANSCRIPT]