
ICANN Transcription
GNSO Temp Spec gTLD RD EPDP – Phase 2A
Thursday, 04 February 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 4th of February, 2021 at 14:00 UTC. In the interest of time, there will be roll call. Attendance will be taken by the Zoom Room. If you're only the telephone, could you please identify yourselves now? Hearing no one, we have no listed apologies for today's meeting.

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

Alternates not replacing a member are required to rename their line by adding three Zs at the beginning of your name and at the end, in parentheses, your affiliation dash alternate, which means you 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 functionality, such as raising hands, agreeing,

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or disagreeing. As a reminder, the alternate assignment must be formalized by the 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. Seeing or hearing no one, if you do need assistance, please contact 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. Good morning, good afternoon, good evening everybody. I will go through a brief overview of our agenda for today now. And if anybody has any other business or anything to add, please do. Shortly, we will turn to Berry Cobb from ICANN staff to give us an overview of the Phase 2A project package.

We will then have a quick conversation about the vice-chair confirmation. I do note the Brian Beckham is with us in the attendees, observing the call today. I did circulate to the list a request for any comments or questions or anything. I've seen

nothing so I'd like to be able to bring that to a conclusion today so we can get that to the Council.

And then we'll get an update from Becky, chair of our Legal Committee that met earlier this week. We'll then turn to the discussion of legal versus natural, which we'll go through a proposed approach for reviewing and refining the proposals. I'll turn to Caitlin to help us go through that.

And then, we'll get into a continued introduction of the proposals for guidance that we started discussing during our last call with the introduction of the proposal by Laureen. Thanks to Laureen for going first last week. But we have at least four others that we want to get to today, proposal six from Laureen, proposal eight from Tara, proposal 10 from Melina, and proposal three from Milton. If anyone else would like to speak to other proposals, by all means let us know. You can put it in chat, raise your hand, let us know. But at least those four, we'd like to get through today. And that will probably get us through the 90 minutes that we have allocated today. And then, we'll talk about next steps for next week.

So let's go ahead and kick things off. And Berry, I'm going to hand it over to you for the overview of the project package. Thank you.

BERRY COBB:

Thank you, Keith. This is your wet blanket project manager. If you'll recall from our prior two phases, we provide a monthly status report to the Council about the progress of the work within the particular groups. It became much more formalized in Phase 2, where as a result of PDP 3.0, as where the project package

was born. And it contains a set of work products that provide a summary timeline, a detailed status, a more detailed project plan as well as the work plan and listing out of action items.

So this is the first one that we'll be sending to the Council. After this call, I will send this package to the list for your review. And then, Monday the 8th is when we'll send it to the Council. And this particular transaction is really not only just to provide a status of where we are as the Phase 2A group. But this will also be the commitment to the plan that we were required to provide to the Council by which we are committed to the delivery dates. And hopefully we make those dates and we do have flexibility terms of project change requests and so on, should there be additional, meaningful traction in the group to carry this through to the end.

So the first slide here is what I referred to as the poor man's Gantt chart. It's basically a high-level summary timeline of our key deliverable dates and what we're working on in parallel. You'll recall that I presented a copy of this back in December or maybe early January that showed our original plan, which was to deliver the initial report by the end of March, which also coincides with a status update from the chair to the Council about the progress of this particular group and the chance for getting to consensus recommendations.

By and large, this was somewhat of an unplanned effort, recognizing though, back at the conclusion of Phase 2 that additional work did need to be done. But from a macro planning perspective, this wasn't necessarily in the pipeline when you're looking at it from the GNSO Council.

So the key takeaway here on this summary timeline is that we've extended the delivery of the initial report to the end of May, which in essence is attaching an additional two months from our original plan. I will note that the chair's update to the Council is likely to occur at the GNSO Council meeting at the ICANN 70 virtual meeting. So that is still a requirement for Keith to provide an update on where we stand and basically provide a status or a probability perspective of whether we're going to get to consensus recommendations.

So in discussions amongst the leadership team, the reason why we've extended the plan by two months is that we got a slower start than what we have expected. There are elements of substance and interest that prove to be more complicated than we anticipated back in December.

We understand that there's greater demand or requirements from a legal advice perspective, for which we just had the first meeting with the Legal Committee yesterday. It also takes into account that we're maintaining a slower pace than what we did in Phase 2, essentially one meeting per week and probably very little appetite to increase that to two meetings. But in effect, with the Legal Committee, we're already at two meetings per week.

Now, while this adds a few months to our original timeline, let's definitely not make the mistake or fall into the typical rationale that looking at this from a monthly perspective is a lot of time. But it's still not. So we need to really be aggressive in trying to come to conclusions about the policy issues that we're deliberating and even probably leverage offline types of interactions to progress the work where possible because in effect, even from today, that

really is only 17 virtual meetings at 1 and a half hours, or just shy of 30 hours. And then, if you fold in the Legal Committee, that's also roughly, we're guesstimating about 10 meetings at an hour duration.

So when you look at it from a per-meeting and per-hour basis of in-person consultation, that's a little bit less than 40 hours from now until the end of May. And by what we're looking at, there's still quite a heavy lift of work to do.

Now, from a project manager perspective and not trying to pre-suppose an outcome, I have to build the plan all the way to the end of us producing a final report with recommendations that would be delivered to the Council. We don't know what's going to ... We can't predict the future but I at least have to forecast the duration and the amount of activity, assuming that we will get to that point. And this is really taking into the larger context, from the GNSO Council's perspective, in terms of planning our overall workload amongst all of the other policy work going on within the GNSO.

That said, the two extra months does provide a little bit more slack than we had originally. So hopefully, we won't need additional time beyond the end of May. But as I noted earlier, if there is meaningful progress and traction on the policy topics and potential recommendations, we do have a relief valve to request more time with the GNSO Council.

So again, just as a reminder, we'll be sending this Monday to the GNSO Council. And I believe it'll be an any other business agenda

item for the Council meetings on the 18th to basically accept our plan here.

The other work products, one that is missing in this package is what we referred to as the PCST, or the Project Cost Support Team. So as a reminder, there is no dedicated budget to this effort, given its shorter length. Therefore, I'm not tracking any actual expenses that were occurring through there.

This is basically what we call the situation report. This is an extract out of the Council's project list that is also produced in preparation for each Council meeting. The core of what you want to know here is what our status and health of the project is. We're tracking a percent complete, based off of the project plan. But most importantly is what we're working on, what we plan to work on, and what we've done from one period to the next. And over on the left-hand side are some of our key milestones that we're committing to hitting.

This is the painful eye chart but this is the core that develops all of the other work products. We call this a Gantt chart project plan. That is divided up between what we do behind the scenes for managing the project, meeting with the leadership team.

This second section is the core deliberations of the working group that are essentially divided by our two primary topics, legal versus natural and feasibility of unique contacts. They are operating in parallel. And then of course, there's a third section which is a high-level marker about the activities of the Legal Committee. That ultimately takes us into an initial report and to a final report, where we deliver that to the Council.

And the last part of the work product is just an opened and closed section of our work plan and our action items. I believe everybody has seen this in terms of the Google Sheet that we're using on the side. But this will be much more one of the primary work products that you'll use throughout the life of this particular group.

You'll want to come here to see which action items are open. And it does give a preview of what we anticipate to be working on for the upcoming meetings, subject to change as deliberations continue forward. But the idea here is for us to focus on what we're working on for now and maybe the next several weeks, with just a key eye to a primary deliverable which, again, is the initial report, down here at the bottom. But in general, the schedule is that we'll be meeting each and every Thursday. We do have a meeting scheduled during ICANN 70 but this will be a normal meeting for us and not a part of the ICANN schedule.

So that's all I have to provide for you. As I noted, I'll send this to the list after this meeting and then we'll kick it over to the Council. Thank you, Keith.

KEITH DRAZEK:

Thank you very much, Berry. And thanks for all of the work that you've done and the team has done to help us be as structured as this and to have some guardrails. I will note that as your chair, I am on the hook for our delivery of and meeting the obligations under this to Council. And I think that this is, I think, a pretty solid approach that we've got before us. Marc, I see your hand. Go ahead.

MARC ANDERSON: Thanks, Keith. Can you hear me okay?

KEITH DRAZEK: Yes.

MARC ANDERSON: Great. Thanks. So, Berry, thanks for the overview. A quick follow-up question. I want to make sure I understand what you're telling us. So I guess, if I understood what you're saying correctly, that Keith is still on the hook to give an update to GNSO Council in March as we had originally discussed but that's based on the progress we're making so far. You're updating the plan to not have an initial report in March but in May. And we'll be asking Council to approve that as our timeline. Do I have that correctly?

BERRY COBB: Yes. That is correct. As part of PDP 3.0, each current and future working groups are required to submit and commit to a set of deliverable dates, especially targeted around the initial report and the final report. So we're accomplishing that in the next two weeks for the February Council meeting. And this is the plan that, amongst the leadership team, we agreed were achievable milestone deliverable dates that we think that we can get this accomplished.

Secondarily, the update in March to the GNSO Council was a requirement at the initiation of this effort. And this is really an

attempt to provide not only a status but to provide an indicator of the traction that this group is taking with regards to these two topics that are being deliberated.

The original intent of this status was to provide ... I think in prior deliberations, there was concern about whether there would be a chance for consensus around these two particular topics. And this was meant as a relief valve, that if the leadership team doesn't think that any kind of tangible outcome is possible, that it could be suggested that this group be terminated.

We're not presupposing what that is. It's too early in our deliberations. But still, at the end of the day, the chair is on the hook to provide that status to Council and provide a commitment that we're still on time to at least deliver an initial report with some potential draft recommendations and a public comment.

MARC ANDERSON:

Thanks, Barry. I appreciate the clarifying for my benefit. If I could ask a quick follow-up, you said you'll be sending this project package to us to review before sending it to Council. I'm not sure we've had ... As I recall, you've just sent it out in the past, not asked us to review it. Is there anything in particular you're asking us to review, or look at, or comment on?

BERRY COBB:

Thank you, Mark. Nothing specific. It's pretty much finalized. But please feel free to ask questions. Or if you see something funny, always additional set of eyes are helpful. Even wet blanket project managers can make a mistake now and then. But in terms of the

substance and the target dates that we have defined here, those are set in stone. It's really just a, "For your information, this is what's going to be sent to the Council."

KEITH DRAZEK:

Okay. Thanks, Berry. And thanks, Marc, for the question. And just to summarize here, I think the key is that we're still working towards an end of March timeframe to have an assessment as to whether consensus recommendations are likely or unlikely for this group. The project plan that Berry has put together, as he noted, assumes or presumes that the group will have some consensus recommendations to deliver. And that's why it extends out into May.

But if, by the end of March, if it's clear or if it appears likely that we will not have a consensus recommendation, then that's what I'll have to deliver in terms of messaging to the Council. So I just want to make sure everybody understands. We're still working towards having some indication, one way or the other, by the end of March.

Okay. So thanks, everybody. Please do take a look at the package that Berry sends out. Let him know. Let us know if you have any questions or concerns. But essentially, the plan is for that to be delivered to Council on Monday.

Okay. Let's move on in the agenda. 2b is just, I'm going to recap where we are with the vice-chair confirmation. I think everybody understands but let me just recap very briefly. We've had one expression of interest for a vice-chair and that is from Brian

Beckham. Brian submitted his expression of interest to us and has been circulated to the group. I've asked if anybody had any questions, or comments, or concerns. I've heard nothing back.

The one nuance here is that historically, the vice-chair has been a member of the group and that's the typical practice. In this case, Brian has volunteered but he is not a member of the EPDP team. And the charter for the group from the GNSO Council is not really clear as to whether the person needs to be or must be a member of the group or not. So we're going to basically go to the GNSO Council and ask for their either blessing or non-objection to an external non-member becoming the vice-chair.

Anyway, I support Brian in his expression of interest for this role. I've heard no opposition. So if there is no opposition, then I think we need to send this to the Council for their confirmation and get this done. Margie, I see your hand. Go right ahead.

MARGIE MILAM:

Thank you. Yeah. I think Brian would be an excellent vice-chair. But actually, the reason I raised my hand was responding to the prior comment because it struck me as odd that we were expecting to do a consensus call before we get to our final report. Maybe I misunderstood the direction that we were talking about. It's very early in the morning here.

But in terms of what we did in Phase 1 and Phase 2, we didn't do consensus calls until the very end. And as I understand, the GNSO Council rules and procedures, there's no obligation that there be consensus recommendations, especially at the initial

report stage. So I'm just trying to understand what was just said and how it impacts what we're going to do.

KEITH DRAZEK:

Thanks, Margie. It's a good clarifying question. And Barry has noted in chat that essentially, at the end of March, we're looking to assess whether there's a chance or probability for consensus. It's not a formal call. It's not a formal consensus call on a final report. But it is something that the GNSO Council has required of us, is to report back and to give the Council an indication as to whether there's a likelihood or what the probability is of this group reaching consensus on the two topics that we have before us on legal versus natural and feasibility of unique contacts. And at that point, the GNSO Council will make a decision as to next steps.

So I think that's essentially where we are and that's the plan. And I think we, as a group, need to continue to work towards trying to identify if there's a consensus recommendation that's likely to come out of this group so I can report that to the Council one way or the other, by the end of March. Okay. I'm not seeing any other hands. Let me move on to 2c on the agenda, which is an update from Becky on the meeting of the legal committee. So, Becky, over to you, please.

BECKY BURR:

Good morning. Sorry for taking so long. I had to double unmute myself. The Legal Committee met. We have started working our way through the questions that have been received from the full group. Our approach is—essentially, what we're asking—is

whether we have already received sufficient advice from Bird & Bird, for example, to answer the questions. If not, whether the questions relate to things that are within the scope of our work here and whether answers to those questions would further the work of the group.

And if so, whether we would seek additional input from Bird & Bird on those. So far, we are really focusing on refining the questions to make sure that we all understand exactly what is being asked in order to answer those questions. So we will continue working away on this. And I'm happy to take any questions.

KEITH DRAZEK:

Yeah. Thank you very much, Becky. Appreciate that. If anybody would like to get in queue, please do. Alan, go ahead.

ALAN GREENBERG:

Thank you very much. Becky, last time around, if I understood correctly, you were requiring unanimity from the legal committee to submit a question. That is, if someone on the committee thought that it was not justified or not needed. It wasn't submitted. I may have that wrong but that was my understanding. Can you comment on the methodology this time? Because certainly, some of us found the results problematic, that we had questions that we thought were important to ask but others decided they weren't important and therefore we never got the answers. Thank you.

BECKY BURR: Thank you, Alan. To my knowledge, we never required unanimity. Rather, we were looking for consensus. Obviously, it's a small group. So a small number of folks could constitute a deviation from consensus. But I do not remember. I was not the chair for the whole thing. I came in mid-way or towards the end. I have no awareness of a question that one person objected to that didn't go to the lawyers.

KEITH DRAZEK: Thank you, Becky. Thanks, Alan. Would anybody else like to ask any questions? Any other members of the legal committee like to speak before we move on? Becky, thank you very much for your time and engagement in helping to coordinate and share that group. Thanks for the update.

Okay. Lets move on. Item number three on our agenda. I'll move to 3a, which is a proposed approach for reviewing and refining proposals. Caitlin, if I could hand this over to you please and if we could bring up the document on the screen thank you.

CAITLIN TUBERGEN: Thank you, Keith. I'm just going to quickly go over an email that was sent to the team on Friday regarding our proposed approach for handling the legal versus natural proposals. As you'll remember from our last call, the first proposal that we went through was Laureen's proposal, which I believe we'll continue to go through at the start of the next agenda item.

But leadership had discussed that the approach would be that we would first review proposed best practices and methodology and

that after reviewing those proposals, the team would be better-positioned to go over whether the Phase 1 recommendation can or should be modified.

So what the support staff team has done—and you'll see it on the screen, this Google Document—is that we've prepared this table where all of the proposals will appear on the left-hand column. And the next three columns have, the first being for the team to opine on what concerns it has about this proposed best practice. And if there are concerns that the approach is untenable or wouldn't work, proposals on how these concerns could be mitigated. And you'll note, as usual, we have all of the groups listed here. So please put your concerns next to your group's name.

Then, moving to the right, the next column says if there is support for the guidance provided, what incentives could be provided to encourage the adoption by Contracted Parties of this guidance?

And then lastly, in the orange column, we ask everyone to opine on if this guidance provides sufficient risk mitigation to consider changing the Phase 1 recommendation. And if you believe it does not, what further risk mitigation would be needed to change your opinion?

So this is an overview of how we proceed to move forward, once we've gone over and given the team members a chance to present their proposals to the group. And I guess at this stage, we're just asking if this proposal makes sense to the team. If there's any modifications we should include in the worksheet, or if

there's any additional suggestions, we're happy to take them.
Thank you, Keith.

KEITH DRAZEK: Thank you very much, Caitlin. Much appreciated. And thanks for the very structured approach here. I think that'll help us do a couple of things. One is to document our work, obviously. And then, the other will be to make sure that we're being consistent in our approach as we consider the various proposals and identify how the proposals can be considered, whether there's agreement or significant differences and hopefully find a path forward. Margie, I see your hand. Go ahead.

MARGIE MILAM: Sure. Thank you. It's great to have some structure to our discussions. My question, though, is this only focuses on guidance. We are in the process of making recommendations for a consensus policy that would be not guidance but actually binding. So I think if this is to work, we also have to add the concept that what we're talking about is something that could become consensus policy. So my suggestion would be to either change the word "guidance" to "consensus policy" or have a separate column for consensus policy.

KEITH DRAZEK: Thanks, Margie. I'll note that Caitlin has put in chat, also, that she said she should have noted that the orange column should be filled in or filled out at a later time, as the proposals may be modified over time. So thanks, Caitlin, for that.

And Margie, I think your point's a good one, in that during our last call, we started looking at it from a best practices and guidance phase. But we also acknowledge that there's a possibility of us finding common ground on a consensus policy recommendation. So I think perhaps another column would be helpful. But we could take that offline and discuss with staff about how best to capture that. But thank you for the comment. Okay. Any other comments or questions on this document?

All right. Let's move on then so back to the agenda, please. And thank you, Caitlin. Okay. So we're going to move into the substance now. Thanks, everybody for your patience but let's get right to it. So 3b under our agenda is the continued introduction of proposals. And we are going to move to, I believe, Laureen for the next step. Laureen, if I can hand it over to you.

LAUREEN KAPIN:

Sure. And yeah. Thank you for making this bigger. Hooray! So we are on six, if you can scroll down a little bit, because we discussed—at least we were starting to discuss—five, which as folks will recall, was for new registrations. And this was very intentional to discuss new registrations separately from existing registrations because our discussions have identified that dealing with existing registrations potentially is much more problematic, resource-intensive. And therefore, my intent with my suggestion six is to try and identify current mechanisms that registrars have to interact with their clients so that those mechanisms can be leveraged, rather than creating an entirely new set of interactions.

So at the time of renewal, presumably there is some communication that takes place. Or the contractual obligations regarding confirmation of accurate registrant data also generate communications. So the intent here is to identify and leverage existing mechanisms to communicate with registrants in order to deal with this identification as either a legal entity or not. And to put it through the lens of Volker's focus, which is certainly relevant, to also deal with whether the registrant is providing personal information or not. These, of course, are integrally related.

So that's really the extra dollop, so to speak, that this proposal entails. It is proposing to leverage existing mechanisms that the registrars use to communicate with their clients and then following the same steps in terms of education, confirmation, verification, ability to correct. It says "follow steps one through four above with necessary adjustments."

And I will also share part of the discussion that is going on within the legal group, shall I dare use the word "inspired" by Volker? I see his hand's already up. And Volker had suggested perhaps one option to deal with the risk of inadvertently disclosing personal information is to explore dealing with this information through automated requests via the SSAD. I.e., if someone identifies as a legal registrant, that would be a category of requests that could be subject to request via the SSAD.

And I had countered, with the proposal there, to explore the option of some sort of safe zone period, where information, after a registrant has elected the legal registrant designation, to be put in some sort of quarantine so that that could be verified, i.e. some

sort of review to make sure that they are indeed not providing personal information. So these are extra issues that have been discussed, that I also wanted you to be aware of. And now, I'll turn this over for discussion.

KEITH DRAZEK: Thanks very much, Laureen. Thanks for introducing that. And Volker has his hand up so we'll go directly to Volker.

VOLKER GREIMANN: Yes. Thank you, Laureen. Thank you for the comments. I think making the differentiation along the lines of not legal versus natural but what data we are actually dealing with is much more appropriate.

For the proposal, I think we should dispel the misconception, maybe, that the registration or renewal of a registration is, or a confirmation of accuracy is, something that actually touches the registrant. Most registrants have auto-renewal set up and domains are renewed every year without anyone ever noticing anything. We are interested in the smooth process, or registrants are interested in the smooth process. And the more interaction you require, you more you set up potential for failures and disruptions.

What I do think, however, what might be a proper venue for voluntary updates and information on what updates the customer can make would be the already-required annual WHOIS data reminder policy email. We are required to send out that email anyway. And if we now tack on further information, "Look. A new policy has come out and you can now update whether your data is

private or personal. This can be done in the system like this,” or whatever, there is already someplace where this could probably neatly slot in.

So if we looked at existing mails that have to be sent out, that would then be used to inform the customers about the options that they have, that, I think, would be a workable way. But as soon as you make it a requirement, where the customer has to react and do something, it creates chaos. Thank you.

KEITH DRAZEK:

Okay. Thanks very much, Volker. I just want to note I really appreciate the constructive feedback there, in terms of, “Well, this would be challenging but here’s an alternative,” or, “Here’s a possible path forward.” So I just wanted to note that and thank you for the constructive feedback as we go through these. James, you’re next.

JAMES BLADEL:

Hi. Thanks, Keith. Thanks to Laureen and Volker for putting some ideas on the table. I just want to point out, from the perspective of a retail registrar, this kind of feels like a plan to dodge bullets from a machine gun. It’s like, yeah. We could probably dodge 100 bullets a minute or 1,000 bullets a minute. But it only takes one. At least in our current understanding of the risk, it only takes really one or two to get through before we have an existential business problem.

So I think that getting this stuff to work at scale is the challenge. It makes sense, when we look at individual domains operated by

attentive, informed, and responsible registrants. But not everyone pays attention to their domains or manages them as closely as they probably should.

I just wanted to point out that a way forward might be to create, instead of focusing on how to safely disclose data or publish data that we have already collected, or to get data that is currently redacted back into publication status, I think we could instead focus on building a mechanism for those legal entities, as well as those natural persons who consent to this, like domain investors who want to sell their domains, to get a standardized process to get them back into a declaration state where they can declare that they are either not a natural person or that they are granting consent.

And focus on a path for folks to get out of mandatory redaction, versus trying to build a safe obligatory publication process. I think maybe we could work at this from the other direction and make more progress. Thanks.

KEITH DRAZEK: Okay. Thank you, James. Brian, you're next.

BRIAN KING: Thanks, Keith. I'm glad that James made that point because I was going to try to address that, too. We're not going to prevent all registrants from making a mistake or inadvertently including personal data in the RDS record. And frankly, that's not our goal.

What we're trying to do with these recommendations, to be clear, is to put the Contracted Parties in the best possible position to minimize that risk down to near zero, such that a registrant who says, "You're disclosing my data," in response to RDDS queries doesn't have a case because they were notified very clearly when they registered the domain name and then reminded x number of times to sort out their registration data, to the point where they're not going to have a claim that's going to provide any real meaningful risk to the Contracted Parties.

So that's what we're trying to do here. I'd really like us to focus on how we can continue to minimize that risk and just understand and assume that we're not going to get it to zero and that that's not our mission here. Thanks.

KEITH DRAZEK:

Thank you very much, Brian. Alan, you're next.

ALAN GREENBERG:

Thank you very much. James' last comment said we should have a voluntary way of allowing a registrant to say their information be published. We already did that in Phase 1 and there was strong pushback to try to set an absolute date by which this had to be done. And I think we used words saying that within a reasonable amount of time or some business-related amount of time, it would be done.

I did ask, I believe, for a report on has that actually happened? Do most registrars offer that service right now? And if so, they're already offering it and it's not a new proposal which changes

anything. So I think we really need to understand the current state of that implementation of that proposal, if it's being proposed again as the solution which may already be on the table today. Thank you.

KEITH DRAZEK: Thanks, Alan. I'll note that James typed in chat that he added the clause "standardized process." But I don't know, James, if you want to respond to that or if anybody else would like to respond from the Contracted Parties side about the current practice.

ALAN GREENBERG: Just to be clear, I did note that. As I said, there was pushback to doing it that way before. But I'm happy if we're now looking for standardized. But still, the question is do we have any actual ... Is this in place, largely, right now or has it been not implemented?

KEITH DRAZEK: Okay. Thanks, Alan. Would anybody like to respond to that? Volker?

VOLKER GREIMANN: Yes. There will have to be some form of standardization, simply because of the fact that we still have to upload the data to some of the registries at least. And if every registrar does differently, the registries have no weight of relying on these confirmations. So if we want to have something in place that is industry-wide, there will have to be some form of standardization and some agreement

of what kind of confirmation and approval is sufficient for the other parties to rely on that.

We're not dealing with just the registrar dealing with their own data. We're dealing with a whole infrastructure that has to be taken into account here. Thank you.

KEITH DRAZEK: Thanks, Volker. Would anybody else like to respond to Alan's direct question about where things are with regard to implementation of the previous policy recommendations? I know that the Phase 1 IRT is still doing its work. I'm just wondering if anybody would like to respond directly to Alan. Okay. Alan, I see your hand again and then James has his hand up. Go ahead, Alan.

ALAN GREENBERG: Yeah. I thought we already had an action item for the registrars' representatives to come back with something on that. Maybe I'm mistaken but I thought we did.

KEITH DRAZEK: Thanks, Alan. James?

JAMES BLADEL: Hi. I don't remember that action item but we can probably poll our membership. I believe it's implemented fairly widely, if not uniformly across the industry. It just may be a bespoke process at each provider. Thanks.

KEITH DRAZEK: Okay. Thanks, James. So we'll capture that. Thank you, Alan. Okay. I'm going to pause and see if there's any other discussion on Laureen's presentation on number six. Laureen, do you have any wrap-up comments before we move on? Obviously, there's more work to be done on all of these. We're just going through the introduction phase, at this point, for each one of these.

LAUREEN KAPIN: No. Just to say that I appreciate the constructive responses and that they've identified, certainly, some options to noodle over. So we will do so. Thanks so much.

KEITH DRAZEK: Yeah. Thank you, Laureen. And thanks again for going first and second now. So I just want to note something or capture one of the comments that was made and some of the discussion that's going on in the legal committee. And that's around an assumption, perhaps, or the possibility of considering these recommendations or guidance in the context of an SSAD in order to minimize risk. I want to make sure that we don't lose that, that we capture that, and that we come back to it as a discussion point. And I'll probably speak to it a little bit more at the end of the call.

Volker, go ahead. And then, we'll probably move on to Tara and proposal number eight.

VOLKER GREIMANN: Yeah. I wanted to speak to that. If you want to deal with that at the end of the call, I'm happy to wait also.

KEITH DRAZEK: Yeah, Volker. Let's handle that at the end of the call, if you don't mind. I'd like to get through the proposals here today. But let's save five or 10 minutes at the end of the call to discuss that. So Tara, over to you, please.

TARA WHALEN: Thank you, Keith. So this proposal number eight is where we're looking at models that we might apply in the circumstance. So SSAC is basically looking for ways to facilitate appropriate publication of registration data, such as the legal person contact data, to support goals such as cybersecurity and network stability. So we, in our group, examined the ways in which other large-scale network contact data was currently being collected and disclosed, in the expectation that this might provide a model for ICANN to follow.

So we highlighted in our proposal some relevant examples from IP address registries—in this case, RIPE NCC and ARIN, which may provide us with some useful practical guidance.

So for example, RIPE NCC's customers, the registrants, are legal persons. They're usually corporations. But natural persons can serve as their contact. So of course, this results in the data of natural persons being displayed publicly in who is. So RIPE NCC puts the responsibility on its legal person registrants to obtain permission from those natural persons. But it also provides

procedures and safeguards for that. So for instance, they provide mechanisms for the removal and the correction of personal data. And they also created an acceptable use policy to limit access to any personal data in the database.

Now, of course, RIPE needs to ensure contactability. And that really underpins their approach. So when they did their GDPR and their RIPE database assessment, which they posted online, which anyone can read and review, this states that “having the contact details of individuals responsible for specific for internet number resources or that provide technical support to the corresponding networks facilitates internet coordination and is crucial when something goes wrong.”

So because of the value of this type of registrant data, the SSAC recommends that we pursue this model and its safeguards further, including any necessary legal analysis—so in particular, the viability of the permission-based grant that RIPE uses to justify publication—really to see if we can adopt or adapt this approach for ICANN purposes. So that was the high-level summary. I’m happy to provide clarification and answer questions but would like to open it up for discussion.

KEITH DRAZEK:

Thank you very much, Tara. And if anybody would like to get in-queue, please do. I note that Laureen has captured in the chat a note for the Legal Committee, “We should submit SSAC’s proposal for legal advice on RIPE/ARIN’s practices, publication of data related to legal registrants.” Thank you, Laureen. So add to the list. Yeah. Thanks, Laureen.

So I have a question. I seem to remember that this was the subject ... And actually, I think it's captured here. It was the subject of previous info from Bird & Bird or previous legal advice from Bird & Bird. If I'm wrong about that, I'm happy to be corrected. But anyway, let me just open it up. Would anybody like to get in the queue? Okay. Volker, thank you.

VOLKER GREIMANN: Yeah. Thank you. It's interesting to get that opinion. However, as our parents told us when we were younger, just because the other guy jumps off of a 10th-floor window, we shouldn't do the same. So it will be interesting to hear their opinion but it is not necessarily an indication that our industry needs to follow the same path or can even follow the same path. Thank you.

KEITH DRAZEK: Thank you, Volker. Laureen, go ahead.

LAUREEN KAPIN: I just wanted to emphasize that I think, actually, this would be very useful because we not only have these models in place. But as the ICANN study noted, there are also the example of the ccTLDs. And I know that many of our registrar friends have pointed out that that's a very different business model and there are also different legal bases involved under national law. But it still is a demonstration of what folks are doing that is arguably consistent with the GDPR.

So to have an evaluation of that, I think would be very helpful, particularly if there's any record of fines being imposed, or enforcement proceedings being brought against these registries, or the absence thereof. That could also, I think, shed some light on the nature of the magnitude or not of the legal risks involved.

KEITH DRAZEK: Thanks, Lauren. And I'll note that Caitlin has put into chat that some of the RIPE NCC practices were considered in Phase 2 by Bird & Bird. And she's provided some links in, as well—some snippets of the relevant language. So let's make sure that we keep that in the back of our mind. I have Mark SV and then Hadia. Mark?

MARK SVANCAREK: Thanks. Lauren has touched on most of my points. I did want to support the SSAC proposal with similar caveats to what Lauren said. We know that this is a different model than what we see in gTLDs to some degree. And we know that, in some cases, there are local laws that provide different bases. But I do think that there is something there that we need to look at. And thanks to Caitlin for posting the historic language from the previous phase so we can review it. But I do think it merits further review. Thank you.

KEITH DRAZEK: Great. Thank you very much, Mark. Hadia, you're next and then Alan.

HADIA ELMINIAWI: Thank you, Keith. So the study conducted by ICANN says the RIPE NCC relies on 6(1)(f) for its publishing of the data. And this is one thing we never actually attempted to explore. And I think trying to explore how 6(1)(f) could be used as a legal base for the publishing of the data is something worth looking into. Thank you.

KEITH DRAZEK: Thank you, Hadia. Okay. Alan, you're next.

ALAN WOODS: Thank you very much. It's just something that Laureen has said there, and I've seen it a few times in suggestions, about whether or not there are current fines or any in-train legal actions against people. I fully understand where she's coming from on that. I do think it's probably not the most ...

When we're talking about the principles-based legislation, when we're talking about something that's so new, by comparison, we wouldn't all be in the position if our privacy shield fell, if we had such certainty from things such as the GDPR. That, as we all know, really came down to one complaint that was specific to one particular provider. And that blew into a whole huge issue that undermined an international agreement and an adequacy decision.

So I agree. I think it would be very illustrative to see if there are current issues and the levels of fines. Yes. But at the same time, I'm not sure how that gets us to the finish line of deciding whether or not there is an increased risk by publication or not. It is exceptionally subjective. And I think we've got a tight timeline. And

I don't want to be led down routes that will just not bring us to the conclusions. Again, I understand where you're coming from. I just want us to be focused on what we can make proper decisions on, as opposed to potentials or hypotheticals.

KEITH DRAZEK:

Okay. Thanks, Alan. I'll note that we have ... I believe this is the ICANN memo from March 13, 2020 on the screen. So just for everybody's information, we have some data here before us. I'm going to go to Jan and then maybe we come back to Caitlin to speak to the issue on the screen.

JAN JANSSEN:

Thank you, Keith. I just wanted to comment on what Alan was just saying, referring to the privacy shield case law. I don't think that that analogy is adequate. I'm just referring to one complaint. That's not entirely true. If you look at these ECJ case on the privacy shield, it's not the first decision by the ECJ case. It's true that there was a complaint and that the ECJ confirmed its previous case law on the issue.

So there should have been no surprise there. And I don't think that the situations are comparable here, where you can implement a policy that fulfills the criteria of GDPR, namely that you are transparent, that you are saying to the users what you are going to do with the data. And that is basically all that is required. Can there be data breaches because of registrant conduct? Yes there can.

But then, the question is who's responsible for that? Is it the registrar or the registrant? I think it's very clear. I was mentioning can there be data breaches because of registrant conduct? Yes there can. But if you have been very transparent about what you're going to do with the data, the risk is virtually zero.

KEITH DRAZEK:

Thank you very much, Jan. So, Caitlin, if I could turn to you. If you'd like to cover the information on the screen. And I think, as we move to wrap up on this item and move to the next proposal, I think one of the questions here is based on previous feedback or advice from Bird & Bird ... Excuse me. If everybody could mute your lines, please. Thank you. Sorry. I think our action item here is to try to figure out if there's further legal advice needed or another question that could be posed through the legal committee, as it relates to this topic. But Caitlin, if I could hand it over to you.

CAITLIN TUBERGEN:

Thank you, Keith. Just as a friendly reminder to everyone about some of the legal advice that we received during Phase 2, Berry has put the specific memo on the screen where the team was looking at consent and specifically did reference both RIPE NCC and ARIN and included links to the practices of those organizations so that Bird & Bird could opine on that. Berry's currently highlighting paragraph 15.

And I'll note that at least in Bird & Bird's previous review, they don't think that RIPE NCC's practice involves freely-given consent, which my understanding is that's required under GDPR.

However, as Keith noted, if there's another question or a more precise question that needs to be asked, I would ask the group to consider that and the Legal Committee could consider it further.

But in terms of asking Bird & Bird to review RIPE NCC and ARIN, I believe they have already done that. So I would just look for something more specific that could help the Legal Committee pinpoint what may be helpful to move the conversation forward and kindly remind everyone to review this legal memo and the other legal memos from Phase 2 so that we're not repeating the same questions and wasting precious time of the Legal Committee and this team. Thank you.

KEITH DRAZEK:

Thanks very much, Caitlin. Very well said. Volker, you're next and then we will move on to the next proposal.

VOLKER GREIMANN:

Yes. I couldn't have said it better than Caitlin so thank you very much. And I think that at least when it comes to consent-based approval by the data subject, I think the memo is as concise and as clear as it can be. Everybody understands what's said and done. So the only question that we have is does the RIPE NCC have another basis for their disclosure? And if it's only consent, then we should let this question die. If there's another reason that they base their publication on then we might look at that and see if that's covered by the previous legal advice or not. But if it's not then that's a legitimate question to ask. But if it is then let's let it go.

KEITH DRAZEK: Thanks, Volker. Laureen, last word on this one?

LAUREEN KAPIN: I love having the last word. Just for clarification, I do think that these are, legally speaking, very separate analyses, although we have asked questions to compare the legal risk. But putting that aside, this memo deals with consent. And of course, we know if the consent is not freely given pursuant to the procedures used then that's a problem.

That's a very different question from looking at it through the lens of dealing with a designation or identification that the entity is a legal entity and therefore the information is appropriate for publication. I think it's very useful to keep in mind that these are two separate analyses and there has not been a legal analysis done through that lens, which I think was the whole point of the SSAC question.

KEITH DRAZEK: Thanks very much, Laureen. And I'll note that there's been some additional activity in the chat. Becky has posted. Berry has also put in a link to a blog post that relates to ripe and 6(1)(f) that Becky referred to. Hadia also mentioned 6(1)(f) as a legal basis.

So I just want to note that there has been some good chat. I think what we need to do is to take this one offline, take it to the Legal Committee for further discussion and consideration. But I'd like to ask if there's a small group of folks who would like to volunteer to

get together to discuss this intersessionally, I would really encourage and welcome that. I think this group is going to need to engage together and with one another in a small group of offline sense to try to advance our work and figure out where we can agree and move things forward.

So with that, let's move on. Thanks for all the good conversation there. I'm going to hand it next to Melina for introduction of proposal number 10. Melina?

MELINA STROUNGI:

Yes. Thank you, Keith. Just a very brief note on the previous discussion for legal basis, which I will keep very short so that I don't lose time from the proposal. Just to mention that the commission in this proposal, which of course still is a proposal. But if it turns into a directive, then it will provide for an extra-legal basis, in particular article 6(1)(c), legal obligation for Contracted Parties to publish data which are not personal. Just to say that this is in support of this effort, just in case there is any unclarity.

So to go to the proposal, yes, precisely. I think this proposal is at the very core of what we are discussing. Basically, this Phase 2A aims at exploring whether differentiation between legal and natural persons is feasible. And the ICANN Org study itself mentions that in order to assess whether it is feasible, we have to see if the measures to mitigate the risk and cost are economical and if the benefits of differentiation make the effort work the potential risks and costs.

I believe it is clear to everyone that the second part, the benefits outweigh any costs and make this effort worth, is undeniable. Having a way of information on legal entities is extremely beneficial for the security and stability of the DNS and is in benefit of a wider range of stakeholders and for the community in its whole. We can spend endless time to discuss this. But I think also, I haven't seen any argument rejecting this fact, that there are plenty of benefits. So now, the only question is whether there are any risks and costs.

For the element of risk level, I think there are plenty of proposals, including Laureen's proposal on how we can mitigate those risks, and as also mentioned by other colleagues, to almost zero. The ICANN Org study further mentions that one way of decreasing this risk will be to have accurate designations. Now, I acknowledge that of course, accuracy is another scoping exercise. But the study itself—the study on the differentiation between legal versus natural—mentioned this as one, not the only one but as one of the measures to help mitigate the level of the risk.

And at the same time, I just am not sure if it is already known that there are not only risks when implementing something. There are also risks in the absence of having appropriate mechanisms in place ensuring the accuracy of data. And compliance with the GDPR would not only save from potential fines of non-compliance but would also give a competitive advantage to entities which are compliant. And this has not, in my view, been included in the benefit-cost analysis.

I was happy to see Volker's comment that this would be beneficial, that this would be helpful. But the only fear is the time constraint.

And I hope that after today's announcement that we will prolong until May, this concern of time constraints will not be an obstacle to further discuss these issues because in my view, really, and to conclude, we are sure that there are benefits. There are definitely ways to mitigate the liability risks.

So the only question is in relation to the costs. And there, really, we can progress very quickly and just focus on that last part and analyze have we taken into account any compliance cost. What is the cost of implementing these solutions? And then find altogether ways, of course, to help out registries and registrars, of course, in finding creative ways to move forward because this is really important thank you.

KEITH DRAZEK:

Thank you very much, Melina. Thank you for the introduction and for submitting the proposal. I see Volker has his hand up but I just want to note that I think one of the challenges that we have here and what we need to figure out, as I think Sarah mentioned in chat, is we need to figure out how we, either as a group or working with ICANN, can accomplish a cost-benefit analysis and how it would be structured—what the various components would be for consideration and to assess whether that's something that is reasonably possible within the timeframe that we have.

But I think the question of cost-benefit-risk analysis, I think is an important one. And it's related, I think, to most of the other proposals in at least some way. Volker, go ahead.

VOLKER GREIMANN: Yes. Thank you, Keith. You're absolutely right. I think having a clear view of the costs involved and the benefits involved is very important. But we also have to make sure that in the end, even if the benefits on the whole outweigh the costs on the whole, it may not be a foregone conclusion, since cannot accept anything that will end up with one side bearing all the costs and the other reaping all the benefits. That's simply not workable. It has to be fair.

KEITH DRAZEK: Thank you, Volker. Would anybody else like to get in queue to discuss proposal number 10? And I'm thinking out loud here but I feel like each one of these proposals probably deserves a small-team focus, as I said earlier, to try to advance the ball or to better understand what might be possible or required with each one of these, in terms of the group's work. So I'm just throwing that out there for consideration.

But if anybody else would like to speak to number 10, please go ahead and put your hand up. I see folks are typing in the chat. I really would encourage you to speak to the issues, if you'd like to. Okay. I'm not seeing any hands. So we can obviously come back to this and I think we should. But at this point, in light of time, if nobody else has anything to say about 10, let's move on to Milton for the last proposal being presented today. Milton? I'm checking to see if Milton is with us.

BERRY COBB: He's not on the call today.

KEITH DRAZEK: He's not? Okay. Is there anybody else that would like to speak to Milton's proposal? All right. I'm not seeing any hands so I guess ... Oh! Brian. Go right ahead. Thanks.

BRIAN KING: Thanks, Keith. Looking for unmute there. I don't think there's anything to discuss. Milton's just saying that we don't need to do anything because registrants can already opt in or opt out. I think that point has been well-made. Thanks.

BERRY COBB: And Keith, this is Berry. I don't have the ability to raise my hand. But I'd note that in our prior meeting, based on a response to, I think, Laureen's proposal, in Milton's response, he basically did outline what his proposal was, even though it wasn't teed up that way. But essentially, reverting to the fact that this is near current state or in the course of being implemented.

KEITH DRAZEK: Okay. Thanks, Berry, and thanks, Brian. I guess I'll not that I believe, if I'm not mistaken, that Milton's proposal or Milton's position is essentially a combination of recommendation six and recommendation 12 from Phase 1, which is status quo in terms of consensus policy that's been approved but is still going through the implementation, through the IRT. So I think I have that right.

Okay. All right. I think then we can move on. I think, at this point ... Let's see here. I'm just looking at the agenda. I think at this point, Volker, let's now turn to the discussion of the SSAD. We've got 15 minutes left on the call. So I think if we think of this in terms of the discussion that's been going on—preliminary discussion taking place in the Legal Committee and raised earlier—if we start thinking about the delivery of the legal versus natural data or the legal person's data through the SSAD, does that provide an additional risk prevention when it comes to inadvertent disclosure of data?

So, Volker, I'm going to hand that over to you. But I think it's a really important and interesting thing for us to consider. Volker?

VOLKER GREIMANN: Yes. I must preface that with a disclaimer that this hasn't been deeply discussed with the rest of the Contracted Parties. It's just something that is my personal opinion so take it as that.

I think a lot of the risks are different for requests or disclosures made through the SSAD, as opposed to publication in the WHOIS, simply because some of the risks that are associated with publication in WHOIS, like harvesting by interested parties, be it spammers, be it Spamhaus, be it IP fighters, anyone can basically access that data in bulk and do what they will with it, whereas there's much more limited access in SSAD. SSAD access is also controlled so abuse can be dealt with in other ways.

So I feel, personally, that the risks are quite different for what can be done in SSAD and what can be done outside of it. That's why I

propose that when we look at disclosure of information that has been confirmed as not containing personal data, the ways that we can make that possible are different and better in SSAD than outside of it. That was basically my thought process on that and still support that point. Thank you.

KEITH DRAZEK:

Thank you very much, Volker. And noted that that's not a formal CPH or registrar position but something that I think is a very helpful and constructive discussion point, if nothing else. And I'd like to open the queue at this point for anybody that would like to speak to it or react. I see Lauren and then Chris.

LAUREEN KAPIN:

In terms of the suggestion ... And I do appreciate the potential benefits because it certainly would mitigate the risk of an inadvertent disclosure. But from the perspective of ensuring that information that isn't personal information has no basis to be shielded, it still has an above and beyond layer of protection that is at the sacrifice of the public's right to have access to this information, along with all the benefits that that entails, as Melina so eloquently explained.

So I think in our view, this would still suffer from some of the same problems that the status quo suffers from, which is that this information isn't protected yet it's under a shield. That said, I certainly acknowledge that an automated disclosure procedure would be easier than a procedure that is subject to each registrar's individual assessment. So I acknowledge that in that

respect, it would be more streamlined. But I think, fundamentally, it still results in a overprotection of information that really should be in the public domain because the GDPR doesn't protect it.

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

CHRIS LEWIS-EVANS: Yeah. Thanks. Laureen's probably just said everything I was going to say. And I think really, still it comes to the safeguards issue and when we do an assessment on this data, whether we think that it is viable for publication and whether it's outside of GDPR. If there is still a high-risk that it is data that is inside, then it may be a safeguard that we want to consider. But I think we need to first answer whether the data that we're talking about is covered by GDPR and data protection or whether it's outside and therefore doesn't need the safeguards. But it's an interesting option for that. Thank you.

KEITH DRAZEK: Thank you, Chris. Margie?

MARGIE MILAM: Hi. I was going to basically say what Laureen said. I don't think it satisfies the needs of other stakeholders. The reason that having it on request is different than published is that there's no ability to use the publicly-available information to do legitimate correlation.

In, for example, the phishing case ... And I bring this up frequently but this is a very common use case where you may try to identify additional domain names that will be used for an attack and you want to act proactively as opposed to reactively. And doing a single query for a WHOIS lookup in an SSAD isn't going to give you that kind of information to protect the consumers and potential victims of a phishing attack. So it just doesn't work.

What we really need is something that enables us to allow the data that isn't protected by GDPR to be available publicly. And let's think about safeguards on how to avoid the situation that something that's supposed to be legal information actually isn't legal. And that's where I think we need to make our analysis. So I was encouraged by the recommendation that Laureen suggested, which is to perhaps have a delay in publication in order to verify whether there is any personal information in the data before it gets published. Something like that is something that I think could work.

And one of the suggestions that ... You asked early on whether there's other proposals. I'd like to submit something after this call, tracking language that was developed by the community almost a decade ago through the EWG report. They came up with a concept of verified contact approach. And I'm going to take some time and pull that from the report and just put it as an additional proposal for consideration. Thank you.

KEITH DRAZEK:

Okay. Thank you very much, Margie. Volker, then Alan.

VOLKER GREIMANN: Yes. Just briefly. Correlation, in our view, is problematic. It's dangerous. The way that you use it may be beneficial and may be helpful for a lot of purposes. But the way that others use it certainly isn't. There is just so much potential for abuse and danger to data subjects that we are very hesitant to make that possible. It certainly wasn't a feature in the WHOIS of old. Certain third-party services made it available but it wasn't intentional, built into the WHOIS.

I think we, in Phase 2, decided on the minimum set of data that should be in public WHOIS and I think that's a decision that we should stick with. Making further information available easier in SSAD has also been one of the focus points of the second phase. And I therefore feel that if we build on what we have decided in Phase s1 and 2, instead of binning it all, that is the best way forward. Thank you.

KEITH DRAZEK: Okay. Thank you, Volker. There's some additional activity in the chat box. But let me go to Alan, to Brian, and to Chris. And then, we're going to start getting close to the end of the call. Alan?

ALAN GREENBERG: Thank you. Two quick points. Number one, in regard to Volker's last comment, I don't really think it's our job to decide what people are allowed to do with public data. So if it's public, you may not like what people do with it but that's life. There's lots of data that's public that are maybe processed in ways that you and I don't like.

But that's a freedom that people have. So we're here to decide whether data should be public or not, not how people can use it if it is public. So that's point number one.

Point number two is using the SSAD to get legal data. If I remember correctly, and I may be corrected, we discussed long and hard in Phase 2 the order in which an SSAD request is done. And a number of us strongly said that if there is legal data involved, it should simply be released, period—that we shouldn't have to evaluate the request, other than make sure it's physically complete before complying. And we were told, "Sorry. That's processing data, even if it's legal. To see if it's legal is processing and we cannot do it unless the request is otherwise valid."

So we may already have built a catch-22 into the system to say that you may not get legal data, even if it's legal data, by requesting it through the SSAD. Thank you.

KEITH DRAZEK: Thank you, Alan. Brian and then Chris.

BRIAN KING: Keith, thanks. I want to make a helpful distinction, I think, between correlation ... And I think some folks, unfortunately, think that what we're looking for is a reverse WHOIS, like you could get at DomainTools or some similar service.

What correlation means in my mind is that ... Folks may know MarkMonitor used to have a pretty sizeable brand protection business. And we would regularly identify thousands at a time of

potentially and then verified infringing domain names with infringing content. And it was a real challenge to prioritize which ones to go after first, which ones are the worst infringements, and which registrants had the most—so efficiency to go after those. We would do a WHOIS lookup on those infringing domain names and then you could more efficiently address your problems by identifying which registrants had the most infringing domain names for a given client.

So that kind of correlation thing is perfectly legal and really a useful thing that is no longer possible because of the way that ICANN has treated domain registration data post GDPR. So that is just one example of correlation and what we're looking for there. It's not necessarily a reverse WHOIS. I'd like for our colleagues here to be open-minded and try to understand what we're looking for when we talk about correlation. Thanks.

KEITH DRAZEK: Okay. Thanks, Brian. I saw Volker put his hand back up. Volker, if you have a direct response to Brian, I'll let you jump the queue here and then we'll come back to Chris and Melina.

VOLKER GREIMANN: Yes. Thank you. And Brian, I absolutely appreciate that there's hundreds of legitimate uses of correlation. I use it myself in my daily work. Today, I received an abuse complaint for a domain name that is infringing on the rights of someone in this group. And I looked up the reseller and found there were 100 more domain names that were similar. And I basically used that correlation,

seeing that it was the same registrar, and took them down. That's not the point.

The point is that others can use the same tools to figure out who owns a domain name that is politically inconvenient in a certain region of the world because the same registrant has a domain name where he has a business and he has used the same data in the backend because it's his domain. And suddenly, you know who own that domain name and can legally persecute him or put him into jail for his comment because you now know who it is.

So there is a lot of abuse potential, using the same tools that you're using for good, for evil. And that's the problem. We cannot allow the cases where people might get hurt from the same tools. That's why I'm very resistant to allow that kind of thing. Thank you.

KEITH DRAZEK:

Thanks, Volker and thanks, Brian. Chris, you're next, then Melina, then we need to wrap things up. Thank you.

CHRIS LEWIS-EVANS:

Yeah. Thank you. Just a quick comment on something that Volker said in his first comment. He said the minimum data set was decided in Phase 1. And I just thought I'd iterate my view. What we're doing here is during Phase 1, it was decided that the differentiation between legal and natural would be decided later. And I think the minimum data set for a legal person is vastly different from a natural person. I think that's what we're doing here. So unless I've got that wrong, is that agreeable that we concentrate on that? Thank you.

KEITH DRAZEK: Yeah. Thanks, Chris. And there's some additional activity going on in chat as well. But yeah. The question that I posed, in terms of legal versus natural and whether using the SSAD for, essentially, providing access to that data is something that the team would like to consider. Obviously, SSAD, Phase 2 recommendations have not yet been approved by the Board. But I think it's a real question that we should consider as to whether that could be a compromise path forward in terms of consensus policy recommendations in the relatively near term. Melina, you're next and then I will move to wrap up the call.

MELINA STROUNGI: Thank you, Keith. I will be brief. Just to answer some points raised before. The GDPR does not apply to legal data, to nonpersonal data. And we're discussing, absolutely, about publication and availability of nonpersonal data. And also, this proposal also refers to nonpersonal data.

From my side, I was really happy to see that maybe some—at least this is how it felt to me—that some progress made today and that we more or less all agree on the necessity of differentiating. So I would hope that we can have more productive discussions towards costs and other concrete obstacles in the next meetings.

If I understood the process correctly, in case, for instance, this would be enforced, then another procedure would be followed. So I would really think it would be a shame to not make any progress and waste all this great effort and hard work so far. So I really

hope we can reach to a good solution where everyone will be happy. This was my concluding optimistic, hopefully, remark. Thank you.

KEITH DRAZEK:

Thank you very much, Melina. Much appreciated. Look, everybody. We're at the bottom of the call. So I'm just going to note that the next legal committee meeting is on Tuesday, 9 February at 14:00 UTC. Our next meeting is a plenary. Meeting number six will be next Thursday at the same time, 14:00 UTC. We will circulate action items and summary notes to the list. Let me just pause and see if anybody has any final thoughts or any other business before we wrap things up.

Seeing no hands, thank you all very much for the constructive engagement in discussions today. I'm glad that we got through three of the four proposals or all four, since we actually did touch on Milton's. And look forward to getting together again next week. Thank you all so much. We'll go ahead and conclude today's call.

TERRI AGNEW:

Thank you, everyone. Once again, the meeting has been adjourned. I will now disconnect all remaining lines.

[END OF TRANSCRIPTION]