
ICANN Transcription
GNSO Temp Spec gTLD RD EPDP – Phase 2A
Thursday, 13 May 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 13th of May 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 yourselves now.

Hearing no one, we have listed apologies from James Bladel of the RrSG and Milton Mueller of the NCSG. 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 your 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 your name, and at the

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end in parenthesis your affiliation “-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 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, please raise your hand or speak up now. Seeing or hearing no one, 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:

Thanks very much, Terri. And hi, everybody. Welcome to the EPDP Phase 2A Meeting #22 of the 13th of May. We'll go ahead

and jump right in. We're going to cover the two main topics again today: legal vs. natural and the feasibility of unique contacts.

In starting with legal vs. natural, we're going to focus on the write up focusing on guidance. Again, guidance to registrars that choose to differentiate between legal and natural. The write up document has been the focus of everyone's homework, and we've had some input. Thanks to everybody who did provide some further input to the Google Doc. And that's what we're going to speak to as we kick things off.

So, as we get into today's meeting I'd just like to ask and remind everybody to really focus on the text and focus on the input received to the text of the write up. And as you're providing your interventions or contributing to the discussion and dialogue, ask yourself, "Am I focusing on the specifics of the text of the discussion here on the specific issue being discussed? And is my input or intervention constructive and trying to bridge any gaps that may remain?"

Just to remind everybody what we're talking about here is text for inclusion in the initial report which we are planning to publish for public comment around the end of May. And so, we've just got a couple of weeks left here to bring this to a point where we're ready to publish it for that public feedback—the public comment feedback. So again, please ask yourself as you're providing your interventions today, "Is it specific to the text and the commentary and the issues at hand? And is it constructive and helping to bridge any gaps?"

Let's try to avoid any sort of broad generalized statements that we've seen, said, and heard before. And that applies to myself as well.

So with that, let's go ahead and kick things off. I guess first, are there any questions, any comments, anything on the agenda that folks would like to raise before we before we kick it off? Okay. I don't see any hands, so let's get directly to the guidance write up. And I'm going to hand it over to Caitlin here to help us run through the document itself. But the remaining outstanding questions are on the screen in front of you in the Zoom room and in the agenda document. And there are a couple of outstanding questions that are before us, so they're on the screen.

Caitlin, I'm going to hand it to you immediately to help us get through this. And folks, please be ready to provide input. And if you've provided input into the document, please be prepared to speak to it when we get there. Caitlin.

CAITLIN TUBERGEN: Thank you, Keith. So, for the legal vs. natural write up, we had one outstanding question from our last meeting. Again, this is about ... The relevant text is italicized, and it talks about when registrars convey the option for registrants to self-identify as natural or legal persons.

I note that the text says, "At the time of registration, or at the first opportunity after registration that the registrar interacts with the registrant." On the write up, we received a comment from Alan

Greenberg that there may be situations where a registrar never interacts with the registrant.

So, both Allen and Hadia had noted, "This seems to be potentially unimplementable if the registrant is never able to self-identify because the registrar never interacts with the registrant. What option can we provide in this scenario so that it's not unworkable or so that there's not perhaps a category of registrations that are never able to self-identify?"

I think Volker noted in response that that would be an extreme edge case, but I think ALAC reps are looking for some sort of workaround because, even if it is an edge case, we don't want to have a situation that is unimplementable. I think that captures the feedback we received, but I would invite those who provided additional feedback to speak to it or see if there's any way we can resolve this. If there is a situation where there's zero contact, how can we work around it? Thanks, Keith.

KEITH DRAZEK: Thank you, Caitlin. Much appreciated. And I see Alan Greenberg has his hand up. If anybody else would like to get in queue on this one, please do. Alan, over to you.

ALAN GREENBERG: Thank you very much. I can't speak to whether Volker is correct that this is an edge case or very common. I certainly have personal experience. When I have dealt with resellers before that, I didn't even know who the registrar was unless I took the trouble of looking at a WHOIS record because, certainly, there was never

any contact. And to be honest, when I first started this, I didn't even understand there was a concept of resellers. I'm going back a while, I must admit.

But clearly, you can't have a situation where contractual terms can be avoided by simply subcontracting. And that's what we're effectively talking about here. So, I understand this is not contractual terms, but this is an obligation and something that we're looking for registrars to implement. And to simply say that some of the largest registrars in the world may not have any contact with some of their ultimate clients makes this whole thing—well, I hate to use the word, but close to a farce.

So, if we're going to say that they have to do it on their first contact, then it can't just be the registrar's contact because, in many cases, there just isn't any. We've talked much about different business models. And certainly, in some business models, the reseller is the contact with the client. And we can't make that an exception to the rule and therefore everything we're doing essentially gets invalidated. Thank you.

KEITH DRAZEK:

Thanks, Alan. I've got Hadia and Mark in queue. But I think one of the questions here that I think this discussion is raising is, what are the obligations? Or is there a way for the obligations of a registrar to flow down to the reseller? And what are the requirements there? What is the ability for a registrar to rely on the data provided to it from its reseller? I think that's one of the key questions here.

ALAN GREENBERG: Keith, can I answer that question—just very briefly?

KEITH DRAZEK: Yeah. Please go ahead, Alan.

ALAN GREENBERG: For a long time, obligations that registrars had were not necessarily passed down to resellers. And it took a while, but the RAA now makes it very clear that obligations must be passed down. And we shouldn't lose that concept just because we're talking about guidance here. Thank you.

KEITH DRAZEK: Thanks, Alan. I've got Hadia and then Marc in queue. Hadia?

HADIA ELMINIAWI: Thank you, Keith. So, according to the Article 16 of the GDPR and the Accuracy Principle 5(1)(d), contracting parties, going forward, will need to have a process in place to ensure data subjects can correct their information. So going forward, there needs to be a process in place in which registrars or resellers are able to interact with their registrants.

And maybe this process can be used to differentiate between legal and natural existing registrations. However, I go back and say it doesn't make much sense for new registrations to have this happen later and put one more step and one more process for

contactability for no good reason. Right? And this puts a burden on the contracted parties and on the registrant as well.

So, again, going forward there needs to be an obligation for contacted parties to have some sort of some contractability with their registrants. And this is also in line with the GDPR. Thank you.

KEITH DRAZEK:

Thanks, Hadia. And just a reminder for everybody. We're talking about guidance here as it relates to registrars who choose to differentiate. We're not talking about new requirements at this stage. But, again, guidance/best practices—whatever we end up calling it—is what we're talking about here. So, let's make sure we're keeping focused on the guidance write up and the text at hand.

And then Marc Anderson and Sarah. Go right ahead.

MARC ANDERSON:

Thanks, Keith. You answered my question there. I actually raised my hand to confirm that we were talking about guidance. I thought we were talking about the section on guidance for registrars that choose to differentiate between legal and natural persons, but that does not seem to be what the comments from Alan and Hadia are about. Hadia's talking about creating obligations and new requirements. And so, I think maybe their concerns or comments or misplaced or in the wrong section.

On the question of differentiation occurring at the time of registration or after registration, I think that a long time ago, within the working group, we recognized that there are different business models and there are different ways that registrars interact with their customers and that, because of that, the working group can't really have a one-size-fits-all recommendation here saying, "time of registration is better" or "post-registration is better". I think we acknowledge that there are different business models and pre- and post- makes sense in different circumstances, and so I think our discussion here is on guidance for registrars that choose to differentiate. And I think we should be focused on that.

KEITH DRAZEK:

Thanks, Marc. And we'll get to Sarah and then Owen next. But, again, just to reread the question that's before us right now. And this gets to the question of: if there is differentiation recommended, are there scenarios in which a registrar with a wholesale-type model could be restricted or challenged in its implementation?

So, the question again is—I'll read it—are there any scenarios in which there is zero contact between the registrar and the registrant which would mean it would not be possible to differentiate if any of the scenarios, as proposed, are followed—as differentiation would happen either at the moment of registration or at the first contact opportunity between registrar and registrants?

So, that's really what we're trying to drill down on here. Are there scenarios that would either invalidate or create a challenge for the guidance that's being considered?

So with that, Sarah then Owen then Mark SV. Thank you.

SARAH WYLD:

Good morning. Thank you. Just to answer an earlier question. If we are in a reseller scenario, the process to correct registration data is typically handled through the reseller. They would provide an interface for managing the domains that they sell to their users. As Owen said in the chat a few moments ago, there's already an understanding that registrars must follow the RAA and that those obligations are passed on through resellers.

And so, I think I'd like to support what Marc said. I don't quite understand why this is being discussed to the extent it is. To the topic on screen, what we see in the italicized text, I think, is sufficient already. And so, now I'll just end with that. Thank you.

KEITH DRAZEK:

Thank you, Sarah. Owen, you're next. Then Mark SV.

OWEN SMIGELSKI:

Thanks, Keith. Just to support what Sarah said and also, I'd like to mention that what Margie has put in chat as well is correct. Again, I'm confused as to why we're talking about this because registrars are obligated to follow the RAA and consensus policies, and they can't get out of it just because they're using a reseller.

While Alan may have encountered that previously in the past because the 2001 RAA did not mention resellers—and I think there were some registrars who got around that—the 2009 RAA quite clearly said that registrars are obligated to bring resellers into compliance. And then the 2013 RAA—the section that Margie put in, I think it was 3.12—is very explicit about the obligations being required for a registrar to do it even if a reseller's doing it.

So, again, not sure why we're discussing this. This is not an issue. Anything that's required on a registrar is required on a registrar whether it's done through a reseller or not. Thank you.

KEITH DRAZEK: Thank you very much, Owen. Very helpful. Mark SV, you're next.

MARK SVANCAREK: Thank you. Since this is guidance and since we're now talking about resellers, it occurs to me that we could simply call this Guidance for Registrars and Their Resellers Who Choose to Make a Natural and Legal Distinction. That would capture the situation, whether it's an edge case or not.

And then perhaps within the second block of italicized text—"registrars should convey"—you could put an additional line which is, "Registrars should communicate their desire to make such a distinction to their resellers in order for their resellers to offer a similar distinction." And I think that would capture this whole issue of the resellers. Thanks.

KEITH DRAZEK: Thank you, Mark. I now have Melina and then Alan. Melina, go ahead.

MELINA STROUNGI: Thank you, Keith. Just a clarification, maybe, to reply to this confusion on why this discussion about resellers is made and what is the relevance to the guidance that we're talking about.

The way I understand it is that it is really important, when providing guidance to the contract parties, who is to differentiate. Right? To make sure that we provide the best of advice on how to best do this. And, of course, we have to take, also, into account the Bird & Bird memo, in that regard, and all the GDPR-related advice.

One such advice is the fact that information notice should be given to the registrants as early as possible, informing them about the consequences of designation on whether they are a natural or a legal entity. So, really a best practice and advice is for those who wish to differentiate, they have to do this as early as possible. So, if possible, at the time of the registration.

Now, for the contracted parties who rely on resellers, this is an important thing. In case that these resellers act on behalf of the contracted parties of the registrars, based on, let's say, a subcontracting agreement or any other agreement which has, as a result, that the reseller is acting on behalf of the registrar, then the registrars should pass on this obligation for information notice, for instance, to their resellers.

And this is why it's important to bring this discussion also in the guidance because there's no other way to effectively advise those who want to differentiate. These are steps that they have to take, and the best practice to do it is as early as possible in the registration process. So, we have to distinguish between contracted parties who can do it at the time of registration between contracted parties who rely on resellers acting on their behalf. So they have, in that case, passed their obligations to the resellers, and in other cases, maybe, where this is not feasible.

I hope this clarifies why it is important to discuss it. Thanks.

KEITH DRAZEK:

Thank you very much, Melina. I see that Sarah Wyld has put a suggestion into chat. A concrete suggestion that says, "What if the second italicized section just loses the last few words and is replaced with 'or at the first opportunity after registration' and ended there?" And so, that's a concrete proposal for the folks on the call to consider.

I have Alan in queue next, but let's make sure we come back to Sarah's question. Alan?

ALAN GREENBERG:

Thank you very much. Several people have said, "Why are we discussing this since obligations are passed down?" I'm well aware of what the RAA says, and that's the whole point of this. Obligations are passed down, so any interaction between the "registrar" and the registrant can—that is obligatory, such as the WHOIS reminder policy which says a letter has to be sent out

once a year to remind registrants to make sure their data is accurate—that can be passed down to the reseller. And therefore, there may not be any contact at all with the registrant. That's the whole issue.

Many of us came into this exercise, the EPDP 2A, with the hope of getting policy coming out of it on legal/natural differentiation. Clearly, that is not going to happen. Our expectations have been downgraded to guidance, but in that case, we want to make sure that the guidance actually applies in all cases and there aren't loopholes by with some registrants say, “Oh, it doesn't even apply to me. I don't even have to consider the guidance because I don't have any contact with the registrant.”

And that's why we're having this discussion right now. I hope that makes it somewhat clearer.

In terms of Sarah's change—and I think what's on the screen right now is what she was implying—again, it's registrars should convey the option. And by taking out the last sentence, it doesn't change that because we're still talking about the interactions between the registrar and the registrant because of the very first word of that sentence.

So, I don't think that changes it. The kind of change that Mark SV was talking about might do it, but I don't think this one does it all. Thank you.

KEITH DRAZEK:

Thank you, Alan. Mark SV, then Hadia.

MARK SVANCAREK: Thank you. Yeah, I think by striking those words, you still have the same dilemma or paradox that was mentioned by Alan before. Let's set aside the idea of binding consensus policy and just talk about guidance. You still have the situation where there may not be an opportunity after registration. There may not be a first opportunity ever. But if you were to say, "Registrars or their resellers should convey ..." then you can be assured that at least there is one opportunity, if not more, to give the option to their registrants. I think that would fix it.

So, you could say, "Registrars or their resellers should convey this option for registrants to self-identify as natural or legal persons at the time of registration or at the first opportunity after registration." Stop. And I think that that resolves the ambiguity. Thanks.

KEITH DRAZEK: Thanks, Mark. I have Hadia and then Laureen in queue. If folks typing in chat would like to get in queue, I certainly encourage that. Thank you.

Hadia.

HADIA ELMINIAWI: Thank you, Keith. Again, Sarah's suggestion is good, but the problem lies in the first opportunity. So, what if there is never this opportunity? And as Mark said, I think it will work better if we just say, "Registrars and their resellers should convey the option for

registrations to self-identify as natural or legal persons at the time ...”

So, we either say “at the time of registration” and stop here or we say “should convey this option for registrants to self-identify as natural or legal persons” and stop there. So, we either stop after “as natural or legal persons” or we stop after “at the time of registration”.

But to have “or at the first opportunity” there might be never ... There might be a situation where you never get to have this opportunity. Thank you.

KEITH DRAZEK:

Thanks, Hadia. Laureen, you’re next. And then I’ll note that there’s some ongoing exchange in chat with Sarah and Mark SV and Melina and Brian. So, if folks could keep track of what’s being proposed there. But please bring the discussion to the voice line. Thanks.

Laureen, you’re next.

LAUREEN KAPIN:

Sure. Can everyone hear me? Yes?

KEITH DRAZEK:

Yep, sure can.

LAUREEN KAPIN:

Okay. I'm keeping track of the chat and just suggesting a refinement. Perhaps instead of "registrars or their resellers" I would propose "Registrars should convey this option either directly or through their resellers," and then continue with the rest of it just to take account of the business relationship and that these obligations flow downward. At least that's my intent.

As far as the language vis-à-vis "at first opportunity" or "without undue delay," I think there's a strong preference for this being at the time of registration. And as I understand it—although I certainly invite my registrar colleagues to jump in and refine my understanding. As I understand it, the reseller has the opportunity to convey this to their customer at the time of registration because, in a sense, they are the entity interacting directly with the registrant and, therefore, they have that opportunity to do it at the time of registration.

So, if that's wrong or I've forgotten something in my conversations with registrars, I invite them to correct me. If it's right, I think it should stay at the time of registration. If it's wrong, I would say that instead of vague "without undue delay" language, I would just put a time frame in there so that we don't have endless discussions during implementation about, "Well, what does 'undo delay' mean? Does that mean business days? Does that mean calendar days, etc.?" That just ends up being a lot of time spent when we could easily define that here.

KEITH DRAZEK:

Thanks very much, Laureen. Hadia, I think that's an old hand from you. And then I have Sarah in queue. I think we're getting closer,

folks, on clarifying this language, so I think this is good work that we're doing here.

Sarah, next.

SARAH WYLD:

Thank you. This is Sarah voicing my suggestion, as suggested. I would propose “Registrants must ensure this option to self-identify as natural or legal persons is conveyed to registrants at the time of registration or without undue delay after registration.”

This would allow the registrar to convey it or to have the reseller do so, similar to what Laureen was saying. I do believe that it is important to maintain an ability to do this after registration and not only at the time of. For example, a registrar might find it most effective to include this in the same process flow where they advise the domain owner that they have the option to consent to the publication of the registration data.

In a situation where the registration is processed to a reseller but the registrar has that obligation to notify the domain owner of the consent option, it might just make more sense to put those two things together. And we should allow that option.

Regarding the timing and “without undue delay”, this is not something that I have discussed with my team but I’m actually open to requiring it within the same timeframe as the WHOIS verification, which is 15 days after registration if we’re conveying an option. We’re not requiring that a decision be made. We’re requiring that they must inform the domain owner within that

period. To me that seems okay. I'm sure it's something the team would need to think about, but not bad. Thank you.

KEITH DRAZEK: Thanks very much, Sarah. I've got Melina and then Brian and Marc Anderson in queue. And there's also been some additional input into chat, as well as a question from Stephanie about the term "must," and suggesting perhaps it should be "should" in the context of guidance.

But let's get back to the queue. So, Melina, you're next.

MELINA STROUNGI: Yes. Thanks, Keith. Just to agree with both Sarah and Lauren. And we could indeed [inaudible] language. I think I made a suggestion in the chat in line with also what Sarah mentioned about the 15 days. So, for example, we could write "at the time of registration or, in cases where this is not feasible, within 15 days after registration," basically.

KEITH DRAZEK: Thank you very much, Melina. Very helpful. Brian, you're next. Then Marc Anderson.

BRIAN KING: Thanks, Keith. I really appreciate the colleagues' constructive suggestions here. I'd say that first. And it seems like we're getting pretty close to language that everyone can agree on.

I just wanted to express concern, though, about allowing this to happen. It's just guidance, but I don't think it's good guidance to allow this to happen later and to not allow registrants to convey this information at the time of the registration. If we listen to our registrar friends, apparently it's quite difficult to get registrars to engage after registration.

And there's been a number of comments about e-mail open rates and response rates to follow-up communications, and I just wouldn't rely on that to meet this legal obligation to allow the self-designation. [So, it's the] hesitation to allow that to happen afterwards. I think we're on a better track asking registrants to self-identify at the time when they are engaged with the registrar or the reseller. Thanks.

KEITH DRAZEK: Thank you, Brian. Marc Anderson, Steve Crocker, Alan Greenberg. Marc?

MARC ANDERSON: Thanks, Keith. I guess my comments were a little overcome by events, but I maybe want to try and respond to Brian on the fly a little bit here. You know, on the question of whether registrars, whether this option to self-identify occurs at the time of registration or after, I'm not sure that really matters to me. But what we're hearing from registrars is that they need the option to do it, either at the time of registration or post-registration. And for those pursuing wanting to have this distinction, we're talking about

guidance for registrars that want to make that distinction and provide that capability to their customers.

I really think we should be listening to registrars here. And if they're saying the best way to get that distinction, to get that done, is to allow a way to do that post-registration, then I think we really need to listen to registrars. They're the experts here. They're the ones that deal with the registrants, and so I think the goal here is not whether it happens at the time of registration or post-registration. The goal is for it to occur, and if it's more likely to occur by allowing it to happen at the time of registration or post-registration, I'd encourage us to listen to the registrars here and what they're telling us.

KEITH DRAZEK: Thank you, Marc. Steve, and then Alan Greenberg.

STEVE CROCKER: Thank you. So, listen closely to this. The following question comes up. If somebody registers and does not specify but the registrar really wants to know that piece of information and then they collect it later, in that interim how does the registrar respond to requests for information about the registration? Do they respond as if it is a natural person? Do they respond as if it's a legal person? Or do they respond in some different way?

So, my point, when you put those pieces together, is that you absolutely have to make a determination. If the distinction is important, you have to make that distinction right at the time of registration. And if you're going to do have a delay in there, then,

as Brian King, I think—somebody— mentioned, it's really two separate transactions they've identified by default as unknown or whatever at the time of registration. And then they change that designation at a subsequent time, and that triggers whatever changes there are in the response to requests at that time.

The bottom line is that the distinction has to ... If it's going to be made and it's going to be useful in subsequent action with respect to responding requests, it necessarily is part of the registration process.

KEITH DRAZEK:

Thanks, Steve. And I have Alan next in queue. And then we should probably draw a line under this one and get ready to move on. I think we've made some progress in terms of the language, and so I don't want to lose that momentum.

Alan, you're next.

ALAN GREENBERG:

Thank you very much. A very brief comment. I really don't understand the reticence of saying this should be done at registration. Registrars, for the longest time, have had no problem whatsoever asking at registration, "Do you also want to have a privacy proxy service associated with your registration to hide your data?" And that's a very comparable question, except that one actually asks for more money. This one doesn't even cost anything, so I really don't understand the reticence of saying that this should happen at registration time. It's really no different than other things that also happen at registration time. And adding a

checkbox and an explanation? I really don't understand the reticence. Thank you.

KEITH DRAZEK: Thanks, Alan. Stephanie and then Alan Woods. And then we're going to move on.

STEPHANIE PERRIN: And I merely raised my hand to counter Alan Greenberg's last comment. A lot of privacy proxies are used by organizations that might be legal persons. It's not comparable. It's an easy, easy out. It is certainly what we will be advising all of our vulnerable folks that we purport to represent— is to go privacy proxy just in case somebody decides they're a legal person and publishes. So, it's not comparable.

That doesn't require the actual legal work and deciphering what a legal person is before you tick the box. Do I want my data published? Yes or No? No. Am I prepared to pay for getting it protected? Yes or no? Easy. Thanks.

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

ALAN WOODS: Thank you very much. Stephanie actually covered quite eloquently what I wanted to say. But what I will also add—and I'm going to somehow channel a registrar at the moment as well in saying I know we're at the end of a rather long and arduous conversation.

[inaudible] this point. But saying things like, “It is a checkbox” and [inaudible] what we're trying to understand here. It can never be just “that checkbox” because “checkbox” does not denote understanding. And I think we keep going back to this concept that we can just educate the registrants. And if we're saying we can educate the registrants and then put that side by side with the concept that it's a checkbox exercise, then we're losing on that one.

And also, I then, just to put in a little bit of additional color, the purchase path within a registrar—we are talking about businesses here. We are talking about very tight margins when it comes to registrars as well. And the effects that the additional steps that are being put in here from a commercial reasonableness point of view has to be taken into account. Yes, that's more of something we can talk about at the end. But when we're talking about these additional steps being put into a purchase path and barriers to the provision of domains and domain names in this ecosystem, we need to take that into account as well.

Again, what purpose is being served by the interference of the purchase path? How is it commercially reasonable? And how is that all going to translate as well? So, there's a lot of different layers in here but, again, my main point was can we just please be careful with ... We're not equating this with just a mere checkbox exercise, because it certainly is not.

KEITH DRAZEK:

Thanks, Alan. Hadia, I saw your hand go up after I closed the queue. Do you have specific comment on the text that we're discussing? Okay. Hand down, so thank you, Hadia.

Okay, so let's move on, folks. Thanks for the good discussion. And I think we can circle back to the proposed edits and wordsmithing that we did to the text and have that recirculated for the group to consider. But I feel like we moved forward there in at least the acknowledgement that this registrant self-certification, in certain circumstances, can be captured after the time of registration even if there's, I guess, the desire, the preference, or the capability to do it during the registration process or at the time of registration.

And I think the key here was that there are certain circumstances, especially with a reseller network or a reseller type of arrangement that that flexibility might be necessary. So, thanks to everybody for that.

Let's move now to feasibility of unique contacts. And, again, we're focusing on the language here. And Caitlin, I will hand this one over to you to take us to the next step. Thank you.

CAITLIN TUBERGEN:

Thank you, Keith. So, in the write up on feasibility, the first issue or the first point of discussion is in relation to the definitions that were sent around by the Legal Committee. I just wanted to remind everybody that the reason that the Legal Committee had proposed new definitions was because the definitions that we had used during Phase 2 were "anonymized contact", "pseudonymized contact". And there was an issue with the use of the term

“anonymized” since it conflicted with the definition under GDPR. And so, there was some discomfort with that.

Due to that, the Legal Committee took the definitions back and discussed them and included some bracketed language whether the contact would be across registrars or within a registrar. And I wanted to mention that the Legal Committee left that bracketed language because it determined that whether the contact was across a registrar or within a registrar was really a policy question and not a legal question.

I also wanted to note that in Bird & Bird’s response to the feasibility question, it didn’t touch on the feasibility of whether that contact would be across registrars or within a registrar. It did however touch on the different risks associated with whether it’s a registration- based contact or a registrant-based contact—so within a registrar or across registrars. Perhaps we could consider adding a footnote to provide a little bit more context in terms of the definitions. They were really used to help Bird & Bird understand the nuance there. But, again, no policy decision was made, which is why that language is bracketed.

With that background, we’re wondering if there are any updates necessary to those definitions in the context of the initial report. And, if so, what suggestions the team has for that.

KEITH DRAZEK:

Thanks very much, Caitlin. Thanks for introducing that. And, again, just to underscore or to reinforce that we have guidance or input from Bird & Bird. The Legal Committee is considered, but I

think one of the key questions here is a policy question versus a legal question. So, it's now back to us as the plenary to consider and discuss.

So, would anybody like to get in queue on this point, as teed up by Caitlin? Okay. I will give everybody a few more minutes here. I know we're switching gears as we moved from legal and natural to the feasibility of unique identifiers unique, unique e-mail. So, again, asking if anybody would like to get in queue on this particular question. And, again, we're talking about this in the context of preparing for the initial report.

Okay. I'm not seeing any hands from members of the plenary. Caitlin, I may turn it back to you to—I don't know—maybe ... Is there a specific question or is there something in terms of something very focused that we can generate some response to?

CAITLIN TUBERGEN:

So, Keith, I think if no one that intervened about the discussion of definitions has an issue or would like to further discuss, what we can do is try to add an explanatory footnote that tries to explain some of the concerns that folks had, namely that there was there was no decision taken by the group at this point whether the unique registrant [is sponsored] at a given registrar or across registrars.

KEITH DRAZEK:

Okay. Thanks, Caitlin. I see a hand from Margie. Margie, go ahead.

MARGIE MILAM: Yes, hi. We've put in comments in earlier versions that it also could be at across a registry as well. So, in looking at the definition, there could be a common registrant e-mail at a specific registry level. So, that's also something we'd like to have considered in the definition.

KEITH DRAZEK: Okay. thanks, Margie. Anybody else like to get in queue?

And I think, again, one of the proposals here is to include some clarifying language in a footnote. But, folks, the queue is open if anybody would like to get in and provide some input or some feedback on this one. Okay, going once, going twice. Caitlin, I'm not seeing or hearing any objection to the inclusion of a footnote, and so maybe that's where we can focus some of our next steps in terms of the language.

CAITLIN TUBERGEN: Yeah. Thanks, Keith. I think we have what we need to move on with that item.

KEITH DRAZEK: Okay. Very good. All right. Let's see. So, next item on the agenda. So, folks, we've essentially gotten through what was on the agenda for today as it relates to the text that we're considering. So, we have some homework assignments for looking ahead. I guess if there's anything else folks would like to discuss today

specifically with regard to the text in the initial report, maybe we have some time or maybe there's an opportunity here for folks to sort of break out into their individual groups as we close the call to spend some time focusing on how we get to the next phase. We've got 45 minutes left, but we might be able to just give you back some time today and allow you to work with your own teams to move this forward.

Caitlin, I saw your hand go back up and then I see Alan has his hand up. So, Caitlin.

CAITLIN TUBERGEN:

Sorry, Keith. I don't want to be the bearer of bad news, but we did have one additional bullet to discuss in reference to the feasibility document. Berry has it highlighted on the screen.

But essentially there were a few comments in relation to expectations for web forms. The Registrar Stakeholder Group reps had indicated that this issue is not within scope for the EPDP team to discuss further, while other members had suggested that Recommendation 13 cannot be implemented as intended.

I see Alan's hand is up, and I know Alan is one of the ones who had suggested that this be discussed further. So, perhaps we can hand this to him to further discuss the issue.

KEITH DRAZEK:

Yeah. Thanks, Caitlin. And thanks for the correction. Always happy to be corrected. Alan, you're next. And then we'll up the queue. Thanks.

ALAN GREENBERG: Thank you. That was what my hand was up for anyway. Recommendation 13 somewhat innocently said, “anonymized contact or web form.” I guess that text was probably written two and a half years ago, or certainly over two years ago, because the report was published in February of 2019. So, that was a very long time ago. The world has changed since then. I don't think anyone sitting around that table would have imagined the kind of web forms that we see commonly right now with nothing other than one or two tick boxes. And you can't provide any content at all—no attachments, no texts, nothing.

So, I just don't think that we envisioned the world as it is today. The Phase 1 did not see any necessity. I honestly don't think it even came up in the discussion of specifying what should be in a web form to make it a usable alternative to being able to send e-mail. But that world has changed, and I think we can't ignore it right now.

You had earlier mentioned, Caitlin—I'm talking to you, Keith—that this could be considered in the IRT. I would like to ask that every time we mention IRT, say which IRT because we have a whole bunch of IRTs that will be going probably in parallel. I think you meant the Phase 1 IRT, but I'm not 100% sure.

But I don't believe that's in scope for the Phase 1 IRT because, as I said, the Phase 1 did not specify anything related to content or web forms, and I can't see an IRT for Phase 1 specifying what a registrar can and cannot include in a web form. And that would be

obligatory on the contracted parties. I just don't see that happening.

So, I believe to fix the problem which now is a real problem that exists, if we are going to allow web forms, we have to make sure they have utility. And that means we need a recommendation modifying Recommendation 13 and saying that since we're not likely to complete the work before the end of May, that, I guess, means that our Implementation Review Team has the task of looking at what the rules are—and I'm saying rules, not guidance—on web forms because they have no utility as they stand today. And it has become a farce, I guess, because it's equivalent to not providing any contact at all.

So, I don't think we can ignore the issue. I think we have to address it straight on. If we're allowing web forms, we need to provide rules as to what those reforms can and cannot do—at least some rules—to make sure that they are useful to the people who are expecting to be able to contact a registrant for that. And simply saying, “You're violating my rules or “You're sending spam” or “I want to buy your domain name” is just not enough content to make it useful. Thank you.

KEITH DRAZEK:

Thank you, Alan. And, yeah, to respond to your question directed to me, I was and have always been referring in this context to the Phase 1 IRT. That's essentially the IRT that's in place working to implement existing consensus policy language. And so, yes, that is absolutely what I was referring to.

Look, I think, as I recall the Recommendation 13 from Phase 1 basically gave the option for an e-mail address or a web form. And that web form would facilitate contact by e-mail. And look, I think here is a reference to a web form. There is a reference to contactability, and I think if there is more work that needs to be done on the usability or the functionality of such a web form, that that is a topic for that Phase 1 IRT.

To my understanding, and I'm happy to be corrected here, this issue has not been raised within the IRT. And I'm going to ask anybody to correct me if I've got that wrong. Has the issue of web forms not meeting the intended purpose or providing sufficient functionality been brought up within the IRT?

So, I've got Alan and Brian. Alan, that may be an old hand. I'm not sure. Either way, Alan and then Brian. Thank you.

BRIAN KING: Keith—

ALAN GREENBERG: Thank you very much. Sorry.

BRIAN KING: Go ahead, Alan.

ALAN GREENBERG: Yeah. It was it was an old hand, but the question, I don't think, is whether it's been brought up. The question is whether that IRT

has the authority to specify rules with regard to web forms. And I think that's a real far push, and I don't think that would get acceptance from the contracted parties. If I was a contracted party, I wouldn't accept that that IRT, based on the wording and Recommendation 13, gives me rules that I have to use on web forms. So, maybe I'm being more belligerent than I should be, but I can't see that IRT having the authority to do that and it being honored by the contracted parties. Thank you.

KEITH DRAZEK:

Okay. Thanks, Alan. And, look, I think this is a good and important conversation. Right? And obviously we have a situation where there are entities/parties/ groups—whatever you want to say—that view the web forms is inadequate under the current implementation. Right? We've talked about this previously that, if that's the case, then perhaps it's an issue for ICANN Compliance and/or for the IRT to focus on.

And, look, I think the question here is, in my mind, I believe that that reference to web forms and Recommendation 13 provides the IRT and the community working with the IRT at least an opportunity to address this issue and perhaps provide some additional sort of implementation guidance on the question.

And if, for some reason, the policy as it exists, as approved by the GNSO Council and by the Board, does not provide for sufficient discussion or for sufficient work on that point, then it's probably something that needs to be referred back to the Council. But I guess my question then, Alan, is, is there something concrete that you're suggesting we consider as a group here perhaps that could

be implementation guidance or could encourage the IRT to take steps on that issue? So, I guess I'm looking for what are the concrete suggestions or recommendations to move forward.

But let me turn to Brian and to Marc. And then, Alan, I'll come back to you. Thanks. Brian.

BRIAN KING:

Thanks, Keith. I have some concrete recommendations for you. I'll note that we will raise the issue in the Phase 1 IRT. We'll certainly raise it there. Like Alan, I wonder if the language in the Phase 1 report—I don't know—the letter of the law [will] be up for discussion about whether some current registrar implementations of the web form allow the type of contact that was envisioned in the web form.

But frankly, Keith, I think that's a distraction. I think what we're working on here in the EPDP Phase 2A, the question that we need to answer is about the contactability of registrants. And the question we have is kind of phrased in terms of whether a pseudonymous, unique e-mail address is going to be feasible or workable. And I don't know. In reading the tea leaves, we may or may not get consensus on anything in that direction.

But as part of the answer to that question, if we don't have a unique e-mail address that works and enables contact to a registrant, then what we should come to consensus on are some minimum thresholds around the web form. If the web form is going to be used in lieu of providing a functional e-mail address, well, that's got to work then. That's got to work for the purposes of the

folks that need to contact domain owners, and it's not just IP. It's all kinds of folks that need to reach out to domain owners.

So, I would phrase it in that context. This isn't an EPDP Phase 1 issue. It's part of the response to needing to contact domain owners and why we're talking about these pseudonymous, unique e-mail addresses. Thanks.

KEITH DRAZEK: Thanks, Brian. Marc, you're next.

MARC ANDERSON: Thanks, Keith. I tend to agree with Keith. I think this is a Phase 1 issue. I think contactability was a Phase 1 purpose, and meeting that contactability obligation is best discussed in the Phase 1 IRT. So, that's, I guess, my thoughts there.

But I want to point out. I think it's important for us all to realize or remember what we've heard from registrars about their experiences with the web form, and that this is creating an avenue for abuse. And I know I've heard from a number of people complaining that they don't get responses from registrants. And with that in mind, it's important that registrars have the flexibility with implementing this web form to combat abusive use of that form and prevent bad actors from abusing that contactability mechanism.

As a registrant, if you're receiving tons of spam via this contactability mechanism, you're not going to pay attention closely. You're just going to delete it all. And if you receive a

legitimate request via this form packed in the middle of a whole bunch of other malicious contacts, you're just going to ignore it. I can imagine, as a registrant, getting an e-mail via this web form, "Hey, your website's been compromised. Contact me here." I'd say, "Ha! Nice try." Delete.

We need to listen to registrars on this and make sure they have the tools to combat bad actors so that the good, legitimate requests can go through. And I understand the frustration with the web forms—that it's limiting—but we also have to remember the other side of this, that it's limiting because registrars are trying to combat bad actors here while still allowing good actors to be able to get through and contact the domain owners.

KEITH DRAZEK: Thank you, Marc. I have Melina, Alan Greenberg, Manchu, Mark SV in queue. Melina?

MELINA STROUNGI: Thank you. Just [a factual remark] that I think it would be useful to also include in the initial report. The first element that I would personally like to see is that we did not have, I believe, enough time to properly discuss the unique contacts so much. I think 80% of our time in the EPDP plenary sessions has been devoted to the discussion of legal vs. natural. And I know that the Legal Committee has made some valuable progress on the definitions of anonymized and pseudonymized, but the fact remains that we didn't have as much time to really focus our discussions on that

topic. So, I think it would be good to capture this at the beginning of the report.

And the other consideration is that, as in essence, what we're really trying to achieve in Phase 2A is basically trying to see if there is any need for update to the existing recommendations. For instance, for the legal vs. natural, we also note in the initial report that legal development that has to be taken into account, [is the] NIS 2 proposal.

Just to note, also, in the context of contactability, the NIS 2 proposal is again relevant as it includes a requirement to ensure that contracted parties should give the possibility to identify and contact the holder of the domain names and the point of contact administering the domain names. So basically, this is another obligation that is likely to rise. So, I think it's also good to mention that in the initial report. Thanks.

KEITH DRAZEK:

Thanks, Melina. I've got a queue here, but I'll just note that when we started the EPDP Phase 2A work, we actually—as I recall—led with discussions of the feasibility of e-mail contacts. And it was the subject of quite a bit of discussion in the Legal Committee. We got the feedback from Bird & Bird, as you noted. But, again, as I recall, I don't remember any real specific concrete proposals put forward by the group on the topic. And that may be a reason why it didn't receive quite as much airtime as legal and natural.

But I would say that ... I think you said 80% on legal and natural. I think it was more balanced than that, and certainly there was the opportunity for specific proposals to be put forward.

Let me go back to the queue. We've got Alan Greenberg, Manchu, Mark SV. Alan?

ALAN GREENBERG:

Thank you very much. In response to Marc Anderson, yes, I think we all understand the difficulty that web forms, despite the captchas and various other things, can be used for a form of spam. But a registrar unilaterally changing that form so it's useless for the purpose that it was originally intended for doesn't address the overall issue. Maybe we need compromise and some discussion and some innovation in how to do it, but simply saying, "You can't send any content at all in it other than one or two preset messages that the registrar has decided on," just doesn't answer the question.

So, yes, there are difficulties. Yes, we don't like spam. Yeah, all of those things. But we need some way of addressing all of the needs, not just the registrars' and registrants' needs because that contact is there for a reason.

In terms of the Phase 1 IRT, if I heard from all of our contracted parties that they are willing to have that Phase 1 specify rules that they have to follow associated with web forms, fine. But I suspect we're not going to get that agreement. And if we don't get the agreement, then it's not sufficient to simply toss it back to Phase 1, to an IRT that will not be able to make any rules. And in that

case, to answer your question of concrete suggestions, the document that we're looking at right now says that there are two relevant recommendations in Phase 1: Recommendation 6 and Recommendation 13. 13 mentions web forms.

Therefore, it is within our scope because we were asked, "Are there changes that have to be made to the Phase 1 recommendations?" We're told by staff that 13 is one of the relevant recommendations, and therefore making a change to that recommendation saying, "Web forms can be used, but there are conditions" and have our IRT set what those conditions are seems like a reasonable, concrete suggestion to me. Thank you.

KEITH DRAZEK:

Thanks, Alan. And I have a follow up question that maybe staff can help us with. And that is, when is the next IRT meeting for Phase 1? And you can just put that in chat if you have an answer for me to help inform this conversation about next steps and how this discussion of web forms might move forward.

Manju, Mark SV, then Margie. Thanks.

MANJU CHEN:

Thank you. I think I've said all of my points before, but because people are repeating their points anyway, so I'll just say my points again. First is that there's a difference between—I think we've all discussed this. There's a difference between [correlation and contactability.] Pseudonymized e-mail is for correlation purpose, and you don't need the pseudonymized e-mail for contactability.

And we haven't seen any evidence of how getting an e-mail either as the exact e-mail of the registrants or a pseudonymized e-mail of the registrant are better in ensuring contactability. And there's a difference between not being able to deliver that e-mail to the registrants [inaudible] and the registrants, they get the e-mail and they're simply not replying to you, then you can't blame registrants not replying to you to registrars not giving you that contactabilities. That's very different.

And also, I think Owen has put the scope of Phase 2A in the chat. We are responsible to answer the question of the feasibility of a pseudonymized or anonymized e-mail. We're not in charge of enhancing contactability or making web forms better. That's not within our scope. I don't know why this web form thing keeps being brought up. This is simply out of scope. That is more within the scope and the IRT of Phase 1. Thank you very much.

KEITH DRAZEK:

Thank you, Manchu. And I'm going to give staff and opportunity to weigh in if they'd like to provide any clarification in terms of scope, in terms of references to other recommendations, etc. I'm not going to put them on the spot this second, but basically give them an opportunity to make sure that we're all playing from the same sheet of music here.

I have a queue, though. So, Mark SV, Margie, Alan. And then I'll turn to staff to see if they've got anything they'd like to add.

MARK SVANCAREK: Thanks. Two points. To Owen's observation, I would have to say that Microsoft's experience has been quite different. Back when we had e-mails to contact people, when we had the ability to write our own subject lines and the bodies of our own e-mails, we had great success with contacting people who were infringing trademarks or IP. The number I've consistently received is about 40%, which is pretty good.

Other people have had different experiences. Then, Owen, some of us found contactability of e-mails to be quite good. If we're worried about spam, I would note that there's lots of spam filtering technology today that maybe didn't exist in the past. That's no panacea, but expecting registrars to duplicate that technology is unreasonable when they could just be relying on e-mails in the first place.

But my main point was about the IRT Phase 1. It keeps coming back, and I really think it's a slippery slope to suggest that an IRT is going to be creating policy. I do suppose that if everyone voluntarily got together and declared that we were going to do it, it's possible. But it does seem very unlikely because it seems like it's a really terrible practice in general. So, maybe this will be the example that is the exception, but I don't think we can count on it just because IRTs do one thing and policy development does another thing.

And if we're expecting deficits or things that we don't like in policy development to be fixed in an IRT, I just don't think that's the best approach. Thanks.

KEITH DRAZEK:

Thanks, Mark. And look, I'll just note that I agree. IRTs are not to develop policy. They are to implement policy. And I think what we have is a policy from Phase 1 that basically says, "Registrars can use either e-mail or web forms to ensure contactability." And what we are tasked with here in Phase 2 A is considering the feasibility of anonymized or pseudonymized e-mail for contact purposes. Right?

And so, I think—and I see that Margie and Alan are still in queue—but I think here that this issue should be broached specifically on web forms, and the implementation of web forms should be raised at the Phase 1 IRT level, at a minimum, because we're hearing the concerns that have been raised here. But I think we need to focus on what is in our charter in terms of the actual feasibility of anonymized or pseudonymized e-mail contact or e-mails for contact purposes.

Margie, you're next. Alan, and then I'll turn to staff to see if they've got any input for us.

MARGIE MILAM:

Sure. I also wanted to echo what Mark had said. In our experience contacting a registrant is useful. It's very useful to resolve issues without having to go to outside counsel and deal with problems that arise with a particular domain name. And I think an ICANN policy should support those objectives.

I also think that when we look at the scope of this particular Phase 2A, we're talking about the feasibility of contacts—or anonymized or pseudonymized contacts—but the whole point of it is

contactability. And if you're hearing from folks that it's simply not working as is within the current environment, then that leads us to point out that that is why we're asking for meaningful requirements that relate to contactability in the e-mail fields.

And so, they are linked and I do feel that, as much as the contracted parties are saying, "You need to listen to registrars," you actually need to also listen to the other side of the community that's telling you that the current system and the current recommendations simply do not work and need to be fixed.

KEITH DRAZEK:

Thanks, Margie. Look, clearly everybody needs to be listened to, and that's why we're engaging in this process. But I think, again, where some existing policy and an ongoing implementation—if there are challenges or problems with that, then it needs to be raised, I think, within those appropriate structures and contexts.

And, look, I've said it before a number of times. I'll say it again. I think this is an issue for ICANN Compliance and the Phase 1 IRT. I'm not opposed to including language that sort of flags the concern about that, but to include something at this stage—this group, the Phase 2A that's supposed to be very narrowly focused in our scope—without having pursued those other angles or opportunities, to me, I have a challenge with that just in terms of ...

From what I understand, ICANN Compliance is not aware of this being an issue and it hasn't been raised in the Phase 1 IRT. And so, I'm struggling a little bit with that. I'll be honest.

Alan, you're next.

ALAN GREENBERG:

Thank you very much. Keith, yes, our charter was to look at anonymized/pseudonymized e-mail—whether it's feasible. It appears we are coming to the conclusion that they are not feasible, and therefore we have a conundrum. We have a problem that what we're left with is something that is not working. And we can't ignore that.

The purpose of a PDP is to put effective, good policy in place, and if we are going to be limited by the words of the charter and we end up with something that is not effective and workable, then we're not fulfilling the real goal. We may be satisfying the words, but we're not fulfilling the real goal of why we have PDPs and a GNSO.

So, I don't think we can be limited since we're coming to a conclusion that web forms are all we have left. As I said before, if I hear from the contracted parties, at least those who are members or alternates of this group, that they are willing to be bound by rules from the Phase 1 IRT on what can and cannot be in web forms, then I'll agree. But I haven't heard that agreement yet, and I doubt if we're going to hear that agreement.

So, saying we can defer to the Phase 1 IRT without an understanding that they can do something that will be taken as implementable policy and put into contracts, it has no meaning whatsoever.

And I'll give another example we haven't talked about. And I'm not really trying to widen the scope. We have the ludicrous situation where registrars are obliged to log whether they know that e-mail was not delivered. If they get a bounce, they have to log it. That's Phase 1 policy. But they don't tell anyone about it. So they, in many cases, are in a position to know that the mail wasn't delivered, for whatever reason, and yet they don't even pass that information back.

So, we have a very unworkable situation as it stands right now. Thank you.

KEITH DRAZEK:

Thank you, Alan. I'm going to pause and, as I noted earlier, give staff an opportunity to weigh in. I don't know, Caitlin, if you've got anything that you'd like to add in terms of context/scoping/framing/references, etc. And then I'll get back to the queue.

CAITLIN TUBERGEN:

Thank you, Keith. I did want to respond to the scoping question. In terms of looking at what recommendations need to change from Phase 1, this group's scope was limited to looking at Recommendation 17 which is the recommendation about legal vs. natural. In terms of Recommendation 6 and Recommendation 13 being referenced, as we noted when we were developing these write-up documents, we tried to provide useful background information that might be helpful to the group as it looks at the issues.

So, Recommendation 6 and Recommendation 13 being revised aren't directly in the scope of this group's work. It was just tangentially related to the use of web forms since it deals with contacting and what the group discussed in Phase 1. I hope that's helpful for the group's understanding of what's in scope and what is not in scope.

KEITH DRAZEK: Thank you, Caitlin. I have Owen and then Steve Crocker in queue. Owen, go right ahead.

OWEN SMIGELSKI: Thanks, Keith. So, I just want to come back again to this scoping issue and maybe share an anecdote. Back in 2009 or so, I was on the Internationalization of Registration Data Working Group. Basically, we were trying to internationalize WHOIS registration data. That was our scope. And as we went through and started reviewing, we realized that the answer to the question was outside of our scope. And instead of going outside of our scope and then coming up with something, we actually had to make a recommendation for another working group properly, within scope, to come out there.

So, if there's something that we want to consider that's outside of our scope, that's not for us to deal with. If there's a concern or there's an issue, there are other processes involved to make sure that those web form concerns are addressed—whether it's through Compliance, whether it's through the GNSO or another PDP or something. But just because you have a concern, we can't

bring it. We have a very narrow scope, a very limited time. We're supposed to come up with a report by the end of the month, and wasting time about web forms it's just ridiculous.

And I know it was said that we need to e-mail and communicate with people on this and that's the reason why we're discussing unique contacts. No, it's not. I remember Jan mentioning within the past few meetings that the reason why we need unique contacts is so that IP rights holders can identify whether there's a pattern of abuse for you UDRP purposes. That's the reason. You want correlation, almost like a reverse WHOIS thing. It's not so that you can "e-mail somebody about that."

So, we need to move on from this web form stuff and focus on the question—is it feasible to have unique contacts? Thank you.

KEITH DRAZEK: Thanks, Owen. Steve, you're next.

STEVE CROCKER: Thank you. So, basically, I agree with last few comments. It's important to disambiguate the different uses. If all you want is to be able to send a message to somebody and not have it disclosed who that is, a simple e-mail forwarder will do the job. And to the point about responding if it doesn't get through, the same forwarder can forward back the fact that it didn't get through. There's no need for a scrambled e-mail address. Simply the domain name followed by the word "Registrant" at the registrar. And then you get a forwarder. You don't need web forms. You don't need scrambled e-mail addresses and so forth.

And as to the point that Owen just made, it's completely distinct from trying to correlate registrations. That's a different purpose entirely, and I've spoken quite vigorously that a better way to do that is to have trusted processes that can do the search.

So, I realize this has come late to this, but I have trouble understanding why this whole web form and the anonymized e-mail came into existence at all when it's trivial to implement a straightforward forwarder. The big problem is whether or not the registrant wants to respond, and there's nothing that's going to fix that directly.

KEITH DRAZEK:

Thanks, Steve. Thanks for the input. And look, I just want to note that we've heard in our conversations that there are challenges with the use of web forms. Right? There's a range of challenges that have been identified whether it's the lack of ability to include an attachment, character limits, lack of confirmation that a message has been received. So, I understand completely and I am not in any way trying to discount or downplay the concerns that have been raised in terms of the functionality.

But I really do think that that's an implementation question related to web forms and as an alternative, or as one of the choices that registrars could currently use under the Phase 1 consensus policy—what existed previously, I think, in the Temp Spec.

And so, look, I'm not in any way discounting the challenges that have been identified. But I think the key here, as Caitlin noted, is that that's really not in scope for this particular group. And if folks

have suggested language that they would like to include, to Alan's point earlier, that if it appears that we're coming to an agreement or a recognition that pseudonymized and anonymized e-mail addresses are not feasible, then I'm okay with including some reference about the concerns that have been flagged and pointing to the IRT and/or ICANN Compliance the groups that should take that up.

And so, I want to put that on the table. But just to be, again, clear that I'm not discounting or denying the challenges that folks are experiencing with web forms, but I think there are other venues where those should be taken up under the context of our scope.

Alan, you're next. And then Chris Lewis-Evans. Thanks.

ALAN GREENBERG:

Thank you. Three very quick comments. In response to Steve, a simple `domainname-registrant@registrar` is the perfect spam vehicle, which is why registrars have not been using that recently and are not likely to move to that. So, that's just the way life is.

Keith, you and, I think, Owen—but I may be wrong—someone mentioned compliance and that Compliance doesn't know about this problem but [pad] web forms. There's nothing in the policy which makes this a compliance issue. And until there's something in the policy which says, "Web forms must include these option or not include other options," there's nothing Compliance could do. And I'll repeat again. If registrars feel that the Phase 1 IRT is a good way to address this issue, I want to hear from them that they

are willing to follow the rules and are willing to have it in their contracts. I just haven't seen that. Thank you.

KEITH DRAZEK: Thanks, Alan. Chris Lewis-Evans, you're next.

CHRIS LEWIS-EVANS: Thanks, Keith. I just wanted to disagree with a couple of statements from Alan, which doesn't normally happen. So, I thought we'd gotten to a stage where we agreed that an anonymized e-mail was feasible, and what we were looking at was the different levels of risk for the different types of anonymized e-mails—whether that's based on a registry/ registrar/registrant-type basis—and what those anonymized e-mail addresses actually were capable of doing. So, whether it is a forwarder or whether it forwards you on to a web form or what the actual function was and the impact that had on the data subject.

So, I think the publication of an anonymized e-mail address is technically feasible, and I think the Bird & Bird letter detailed that it was acceptable from a legal risk point of view, just dependent upon the functionality behind it. Thank you.

KEITH DRAZEK: Thank you very much, Chris. And we have five minutes left in the call today, so if anybody else would like to get in queue on this particular point, please do so now. Otherwise, we will move to begin wrapping up.

I see we're going to start losing some folks anyway. So, anyway, going once. Anyone else like to get in queue? Going twice. Going three times. Okay.

All right. Thanks, everybody, for the conversation and the discussion on this. I'm going to review our homework assignments and then turn to staff for any final wrap up remarks. And then we will look ahead to our next call on Tuesday.

So, a reminder of homework assignments. If we could scroll down a bit. So, confirming next steps also. We need to continue to review the updated write ups and flag any comments or suggested edits. Homework assignment reminder is to review the proposed legal and natural questions, as well as the language around the unique identifier.

So, again, everybody needs to be focused in the documents on the text providing, if any, suggestions to make sure that they are constructive in trying to bridge any gaps between what we see among the various groups. So, yeah, basically a review of the write ups for both legal vs. natural and the feasibility of unique contacts.

Okay. Any other business before we wrap up? Next meeting is Tuesday at 14:00 UTC. Please, everybody, by end of day tomorrow please provide your input so the staff can do another turn on the write ups for the two topics.

All right, everybody. Thanks very much. We'll go ahead and wrap up. Any last comments from staff, feel free to jump in. But I think it's been captured.

Oh, Caitlin. Go right ahead. I see your hand. Thanks.

CAITLIN TUBERGEN: Thanks, Keith. I just wanted to kindly remind everyone that when providing comments in these two documents, it's really helpful if you can provide specific textual suggestions or specific edits rather than generalized comments. That would be really helpful for us. Thank you.

KEITH DRAZEK: Yeah. Thanks, Caitlin. Thanks, everybody. And thanks for all the constructive work and discussion. I feel like we made some progress today and we're getting closer. But it's getting into crunch time for finalizing the language for public comment. So, thanks, everybody, for your attention. And we'll go ahead and close today's call. Thanks, all.

TERRI AGNEW: Thank you, everyone. Once again, I will stop the recording and disconnect all remaining lines. The meeting has been adjourned. Stay well.

[END OF TRANSCRIPT]