
ICANN Transcription

Registration Data Accuracy Scoping Team

Thursday, 17 March 2022 at 14:00 UTC

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TERRI AGNEW:

Good morning, good afternoon, and good evening. Welcome to the Registration Data Accuracy Scoping Team taking place on Thursday, the 17th of March 2022 at 14:00 UTC.

In the interest of time, there'll be no roll call. Attendance will be taken by the Zoom Room. If you're only on the audio, could you please identify yourselves now? Hearing no one, we have listened apologies from Roger Carney and the alternate today will be Owen Smigelski.

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 none, if you do need assistance, please e-mail the GNSO secretariat.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

All members will be promoted to panelists for today's call. Members, when using chat, please select everyone in order for all to see the chat. Observers will have view-only to the chat access. Alternates not replacing a member are required to rename their lines by adding three Zs at the beginning of your name and at the end in parentheses the word 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 functionalities such as raising hands, agreeing or disagreeing.

All documentation and information can be found on the wiki space. Recordings will be posted on the public wiki space shortly after the end of the call. Please remember to state your name before speaking. As a reminder, in order to take part in ICANN multistakeholder process, you are to comply with the Expected Standard to Behavior. With this, I'll turn it back over to our chair, Michael Palage. Please begin.

MICHAEL PALAGE:

Thank you, Terri. Good morning, everyone. Just a quick heads up today. We are scheduled for a 90-minute call. I have a conflict in the middle 30 minutes so Olga will be stepping in and chairing during that 30-minute gap. But I should return for the final 30 minutes. So that is first administrative update, number one.

The second administrative update—and I do not see Becky on the call—but I think it was really informative as far as a recap of ICANN 73. Some of the news that Becky shared with us last

Monday about the ICANN Org potentially reaching out to the European Data Protection Board to get some clarity on what data could be processed in connection with the work that we're doing. And it was interesting because that topic not only was first raised on Monday during this group's call but also during several other sessions during the course of the week. Again, I don't see Becky here.

So I guess the first question that I would like to tee up to the group is—I did make this suggestion about ICANN Org reaching out to this group to consult or perhaps loop us into some of those discussions. I think at the time, Becky said that something that—okay, there we go. Becky has arrived and is being turned over to a panelist. Thank you, Terri, for that update. So I will wait until Becky gets fully transitioned over to a panelist.

Welcome, Becky. Not to put you on the spot. What I was just doing is I was just providing a recap of ICANN73, some of the things we're discussing, particularly the information you shared about ICANN Org potentially reaching out to European Data Protection Board to seek clarification on what data could be processed for purposes of any accuracy studies or other related activity. When I raised that, I think when you shared that with us last week, the question I think the initial response was, is that something that we could take a role in or have some type of involvement? I think at the time you said that something you would think about. You didn't comment. You were non-committal. You said that's something that was worth exploring. I was wondering now in hindsight through all of ICANN73, is that a question to ask to you since this is something that the Board discussed, or is this

something that we as a group, if we find it worth exploring something that we should take up with ICANN or directly through Brian? I guess that's my question on how we should see what that next step is, if that makes sense.

BECKY BURR:

So here's my view. We're going to put together a variety of scenarios. I think it makes sense to share those scenarios. The question is how can we do it in a way that avoids really prolonging the process because, clearly, in order for this information to be helpful, we would like to understand whether we're going to have access to it sooner rather than later. So one thing that I think might be useful is if people have different scenarios in mind and want to share them, we can sort of proactively think about building them in. And when I say scenarios, let me give you sort of a suggestion of what I'm thinking about.

So say, for example, one scenario is ICANN engages an independent third-party analyst to access the full dataset and conduct a study and analysis to determine what kinds of inaccuracies show up in the dataset and how prevalent those inaccuracies are. That doesn't preclude the important conversation that we are having, which is that we also need what we require by way of accuracy in order to accomplish the purpose that we're trying to with respect to this data. But just to say we found that 90% of the phone numbers follow the appropriate 10-digit arrangements for their country or whatever it is. They were all area codes or something like that. I don't know what the studies would be. So that's kind of one scenario.

Another scenario is ICANN does all those same things, hires an independent analyst, but all of the data is reviewed in Europe, so in the European Union. So the data transfer issue is under GDPR. I recognize it still requires a Data Protection Agreement but the transfer issues aren't raised. Another scenario would be ICANN itself does the study along the lines of the ARS system that it was using. Another scenario is—and I think probably we would need to do this—ICANN engages a professional statistician to understand what portion of the dataset would need to be analyzed in order to get reliable numbers. So maybe you don't have to have every single registration in the pot to be looked at, but some subset that would require appropriate percentages from each of the registries and different arrangements to make sure that we got a representative sample of sponsoring registrars and the like, I don't know what any of these things are. But those are kind of the scenarios we're thinking about and we want them to be as specific as possible. So if people have scenarios that they think are worthwhile, please share them and we can hopefully cut the review time down on the back end by understanding what people are looking for on the front end.

MICHAEL PALAGE:

Thank you, Becky. That was helpful. Just two quick follow-ups. So when you say "we," since the ICANN Board, I believe, undertook this study as part of, I guess, their workshop prior to ICANN73, are they going to be involved in this or is this now all going to be handled by ICANN Org? I'm just wondering—I guess the follow-up question is, should we just funnel our comments through Brian or

yourself or both? What do you believe would be the most appropriate way to get feedback to the “we”?

BECKY BURR: The Board is not an operation—

MICHAEL PALAGE: Did I lose Becky? Okay, good. So put it this way. I heard Becky say that the Board was not operational, which I agree. Brian, I see your hand up. So perhaps you could step in and perhaps answer the question on how we as a group could get those scenarios to, I guess, ICANN Org.

BRIAN GUTTERMAN: Yeah. Thanks, Michael. Thanks also to Becky, if she’s back connected, to sort of given the background. I think it’s sort of both in terms of what you said. Of course, there’s nothing stopping the group from continuing to put questions in writing for Org. I think also in terms of what Becky just said, we welcome the group to come up with scenarios, in addition to the ones that Org is going to put together, to send along to the EDPB. So I guess my answer is both. And just to give an update that this sort of concept has been brewing. I think it wasn’t just out of the blue last weekend and that we’re going to be working on Org and the Board, consult one another. Of course, the Org is the operational side that will be sort of delivering the scenarios in the questions. So we might have independently questions to go there. But if you want to pose questions or make suggestions in writing for the Org, I’m the right person to funnel those through. So I think all the channels are

open. I think as we have updates, we'll continue to send them along, whether it's me or Marika or Caitlin or whoever. So I hope that's helpful, Michael. As we go along here, I know Becky can provide the updates as well.

MICHAEL PALAGE: Excellent. Thank you. Again, just to be clear here, I think just looking at Sarah and some of the other comments of people, I think this is something that we want to do again. As a chair, I'm not saying that we do this. If the group thinks this is worthwhile, we do it. If not, we could just stay focused on our other work. Steve, I see you have your hand up.

STEVE CROCKER: Thank you, Michael. I don't know if Becky's back in contact with us, I hope, but Brian at least. So two different top-level questions. One is with respect to accuracy, some fraction of the people who need the data need very high levels of assurance about the data for legal purposes, for being able to pin down the identity of the registrant, how is that going to be taken into account in terms of assessing the accuracy? So that's one question.

The second question is quite different. Our entire focus here is on GDPR. But GDPR is only one of a growing number of privacy regimes. Are we structuring our inquiry in a way that takes into account the existing regulations and takes into account what the forthcoming requirements are going to be in terms of satisfying those privacy regimes? Thank you.

MICHAEL PALAGE: I think those are something that could perhaps be cued up in the specific scenarios. So again, those countries that do have data localization requirements, perhaps that's something that can be asked in a question how data from those countries will either be included or excluded. So that's something that you may want to pose in one of your questions. I think that's a good question.

With regard to people who use the data, I know this has been something that you have been very focused on. As I said, I think there's a very fine line in our remit as to just looking at the accuracy as far as third parties who have access to that, I think a lot of those purposes were already set forth in EPDP Phase 1. So I think we have some restrictions on opening that up. Again, I just kind of want to note that there. Beth, I see your hand up.

BETH BACON: Yes. Hi, friends. How are you? Happy post ICANN week. I think my understanding from the few blurbs we heard from Becky at the beginning of this call but also during our CPH Board meeting was that they were going to really focus on ICANN's getting clarification on can they make a proactive kind of ARS move as opposed to reactive ARS accuracy things. So I do think it's important that we keep it kind of scoped there, but also I just wanted to say I'm generally supportive and really appreciate Brian and Becky, kind of the proactive, asking of questions. It's always good to start with data. And I think that getting that baseline, what can we look at and when for ICANN is important, and then this group will benefit from that baseline dataset. I think anything beyond that might be a little too much just because we're trying to get that baseline. But again, I really appreciate Becky taking the

time and Org and everyone, this is not a small lift for you guys. So I appreciate you reaching out and doing that. Thanks.

MICHAEL PALAGE: Thank you. With that, that was probably a little longer of an administrative, probably one of the longest administrative updates that I've given, but I think it was important there were some positive events. I really do think last week's meeting went well, particularly for any new ICANN community participants that were able to sit in. With that, I now would like to transition to our working definition. Here, again, I think there is collective thanks from, I think, a lot of the parties involved regarding the work of our ICANN Org colleagues to try to thread the needle on synthesizing a lot of different viewpoints.

So what I'd like to do here, Marika, is I'll turn this over to you to put up the definition. Unless there is any objection, I think we are on the precipice of perhaps putting to bed assignment number one, I believe. I don't want to jinx that. So, Marika, you have the floor. Oh, Sophie, you have the floor.

SOPHIE ALICE HEY: No, it's okay. I'm quite happy for Marika to talk, and then I'll come in at the end. I'd rather hear her explanation rather than try and guess what she's going to say. Sorry. I was just very keen about getting to jump in on this one. Sorry.

MICHAEL PALAGE: Okay. You are first in the queue. Marika, you have the floor.

MARIKA KONINGS: Yeah. Thanks, Michael. So what you see on the screen is what we circulated I think earlier this week to the group. As you see, it has one minor redline based on the suggestion that Lori sent to the list yesterday, which from our perspective, seem to be a fairly minor edit. As noted in the e-mail we sent, we really try to look at input that was originally provided by the Registrar team, input that was provided by our ICANN Compliance colleagues. The conversation that the group has had around this concept of working definition description, and some of the confusion that resulted from that, we really tried to bring it back to what it is that this is intended to be. Again, from our perspective, this is really about describing what current requirements and enforcement looks like so that everyone is clear, when we talk about accuracy in the current context, what that means in practice. Of course, that does not preclude potential changes to these requirements or enforcement based on the work that the scoping team does and potential future work that's undertaken. So that's not precluded by that, but this is really focused on describing the here and now. Our hope is that by doing this and hopefully reflecting the spectrum of what is there, this is not either an absolute in black and white, I think, as we've tried to say as well. There are some specific circumstances that apply in certain places, in certain cases, or where further investigation may take place. But again, we hope this provides a fairly accurate picture of what things look like today.

Then, of course, during the course of the group's work as we go from assignment two to three and four, and then of course your attention can focus back on what is missing here? What problems

exist that are not addressed by these current requirements and enforcement? And if so, how can those be addressed? So again, that is basically what this tries to represent. We at least try to introduce that as a way, hopefully, forward in this conversation so that a group is focusing on some of the other work items.

MICHAEL PALAGE: Thank you for that introduction, Marika. Again, thank you to you and your ICANN Org colleagues for putting this together and synthesizing this. Sophie, I see you have the hand up. You're first in the queue.

SOPHIE ALICE HEY: Thanks, Michael. There's a couple of points that I wanted to raise for this one. So as we flagged on the mailing list, we think this is a really useful starting point to continue discussions. We do have a couple of concerns and comments we'd like to make. So I'll start, first of all, with that last paragraph that staff have helpfully put together. Furthermore, in addition to the requirements, that one. So first of all, we're quite concerned with a specific call-outs of individual registry operators. Now, it may be that these registry operators who have privately reached out and said, "Yes, we find it to be named." But overall, from a Registry Stakeholder Group perspective, we try and not call out individual registry. So we're quite concerned with that, particularly given that I think the specific contractual language that we'll be looking at is set out in the base Registry Agreement Section 2.19 and how that relates to Specification 12 or appropriate community TLD policies. So we're

thinking it might be worthwhile clarifying that and removing the references to individual registry operators.

We also disagree that .brands or Specification 13 registry operators count as verified TLDs. My personal perspective representing .brands is that they're not a form of verified TLDs, simply because the Specification 13 operates to restrict eligibility, restricts the overall how many registrars can potentially be used by a given registry operator. It's not about making those domains available to other people. It's about having an internal process to go through to request a name than reaching out to the appropriate registrar and gaining that name. So it makes sense that there's some sort of accuracy there but it's certainly not a baseline and it's also not a verified TLD in the same category as .arrow, as .bank [inaudible] calling out any other ones. I'm just using the ones that are already there. So that's the first point.

The second point I wanted to make on this is I think that in terms of measuring, I come back to how do we actually work out how to measure based off this particular definition? I think this is part to thread the needle even further perhaps between the survey that Michael put out and this particular setup. So what we have is we're looking at potentially saying something is accurate, but accurate compared to what? That's where we need a standard. What I think this description sets out besides the caveat we've set out before just now is that these are really the standards against which we're measuring accuracy. So we're saying it's accurate if the certain requirements are met. So then it becomes less about whether it's an all or nothing or a different type of degree, but we're actually going this is what it means for a particular data

element to be accurate against a certain standard and that's where we bring it all together. The registries have mentioned this in a couple of bits of homework already and I did want to flag them. I'll pause for now. Sorry for going on for so long. Thanks.

MICHAEL PALAGE:

Thank you, Sophie. So I guess our experience with Spec 13 registrants perhaps is a little different. Marika, could you just open up that link real quick to Specification 13 of the base agreement? If you look at Spec 13, each year, the registry operator needs to make a certification and attestation to ICANN on the registrants. There's basically three types of registrants that are eligible to register in a .brand: the registry operator, its affiliates, but perhaps more importantly, for purpose of accuracy, are trademark licensees. So in this situation where trademark licensees are permitted to register in a Spec 13 according to the current registry contract, it's more than just an internal registration within the company. It actually is permitting registration and use of that brand by a third party through a contractual relationship. That registry operator needs to make that representation to ICANN once a year. So, to me, I think when you're looking at what is being represented accuracy, I think—that's my opinion, other people may disagree—but I think that falls within the scope of not on par with perhaps a .bank, it is verifying that you're an FDIC member, or .arrow that you're a member of one of the delineated crews. Again, I just use those TLDs because I've worked with many of those over the years. But I guess that would be my initial response back to say that it potentially falls within scope.

What happens here, I am going to apologize to Olga because I am going to have to drop in the next two minutes. So this is a probably cruel and unusual punishment to argue something incredibly legalese, but I'm sure you will be able to handle it and facilitate in negotiations. Steve, you're up next in the queue.

STEVE CROCKER:

Thank you very much. I'm channeling Alan here on a very small specific point to put up the text again of Marika's very fine summary. Taking a minute. The issue is the latitude that's implied in checking either the e-mail address or the telephone number. The point is, that's fine, but the obvious and logical part of that is—and it must be clear to the people who received the data which one it was or, actually, to tighten that up a little bit. When responding to a request, the response should include the one that has been verified, that is no game playing of, well, we verified the e-mail address but we're only going to give you the phone number. But the broader point is which one of those was in fact checked? That has to be noted as part of the response.

So I'm suggesting here that the text of this—where is that or? Yes, so the bottom of paragraph four should be extended a little bit to make it clear that, in addition to including an affirmative response to one of those, is to note which one has gone through that process.

MICHAEL PALAGE:

Okay. Thank you, Steve.

STEVE CROCKER: We'll save a lot of time not having Alan bring this up over and over and over again.

MICHAEL PALAGE: Okay. And what happens is, I will be returning in 30 minutes. During that 30 minutes, I know there are some people that are saying what isn't is out of scope. I can tell you having worked with some registries, both community registries as well as brand registries, ICANN Compliance, as part of their audit, specifically asked registry operators, "What have you done?" They've actually sampled a number of registrants to see what proofing we did. So, again, this is experience that maybe not a lot of my Registry colleagues have, particularly from the larger generic space, but I can tell you, this is what ICANN Compliance does. And with that, I will be back in 30 minutes. Olga?

OLGA CAVALLI: Okay. I'm here. Thank you, Mike. Thank you, everyone. Hello. Good morning from Buenos Aires. Good afternoon, good evening, wherever you are. I see four hands up. I built a queue based on what I see in the screen. Maybe it's not accurate. I hope it is. Steve already took the floor. I have Velimira, Sophie, Marc, and Volker. I hope this is okay with the time that you raised your hand. Velimira, you're next. Welcome.

VELIMIRA NEMIGUENTCHEVA-GRAU: Thank you, Olga, and hi to everybody. I'm alternate to Melina Stroungi from the European Commission who could not be present today. I just wanted to, first say, thank you very much

for the work. And thanks, Marika for having put this together, and the rest of the team.

We had a chat yesterday with Melina. Actually, we just wanted to make it vocal that from the GAC perspective—I don't know whether Ryan is present today—when we talk about accuracy, we want to reiterate once again that is not sufficient to talk about them, syntactical and operational accuracy, but also who is namely behind a registration. It seemed to us actually that this would be in line with what we have heard from ICANN Compliance according to which accuracy is not only limited to the syntactical and operational accuracy but that also includes examples where registrant's identity is blatantly inaccurate. So this is what I wanted to share with the rest of the group.

OLGA CAVALLI: Thank you very much, Velimira. Apologies for not pronouncing correctly your name.

VELIMIRA NEMIGUENTCHEVA-GRAU: No, it's correct. Thank you. No worries.

OLGA CAVALLI: Okay. Thank you very much for your comment. I don't know if Brian is in the call or wants to add something. I just don't want to put him on the spot. But as you name him, I don't see his hand up. Thank you, Velimira. Sophie, you're next.

SOPHIE ALICE HEY: Thanks, Olga. Sorry to jump back in again. I wanted to clarify a couple of things that Michael said. So when Michael talks about trademark licenses, there is actually a restriction in Spec 13 that makes sure that there can't be registrations and licensing done for the sole purpose of domain registration. It has to be for another one. So domains can only be a secondary purpose. Again, this is really just to reiterate, we're asking that we look at them as different categories for .brands as opposed to other ones. So yeah, I just wanted to reiterate that and encourage us to look back at the contract. The other part, if we're looking at these niche obligations, is to look under Specification Section 3, there's some GAC safeguards which also talk about these different verification requirements. So really, what we're trying to do is make sure that we correctly set out all these different niche things and recognize that these are some verification requirements that may have some nexus in relationship to accuracy, and it's important as part of our work that we notate them down correctly. Thanks.

OLGA CAVALLI: Thank you very much, Sophie. I have Marc next. Welcome, Marc.

MARC ANDERSON: Thanks, Olga. First, I want to jump in and say thank you to staff for putting this together. It's clear we've been struggling with this assignment. We needed a little bit of change in track to fix our direction. So I think this goes a long way towards that. So, hopefully, this will help us move forward.

Michael said sort of in teeing this up that he hopes this gets us to closing out assignment number one, first assignment from GNSO Council. I'd very much like to do that as well. Here I may be virtually looking at staff to see what they think. My suggestion is to take this one step further and actually take this text and go about putting that into a response to GNSO Council on assignment number one.

The discussion about a current definition of what accuracy means in the gTLD space as exists right now is only sort of part of the assignment. I think it's certainly important to talk about that in our response to Council but it's also important to how we tee it up. Nothing in this text talks about the fact that there isn't an agreed upon definition. And what we heard from ICANN Org in responding to our requests on this is that they don't actually have a working definition, rather they look to the current RAA obligations.

So I think these are all things that we should capture in our response to Council. So I think this is a great step in moving us forward. I like the direction we're moving in. But I would like to see us take it one step further and actually start drafting text, turning this into what our response to Council for assignment number one look like and addressing that first assignment.

OLGA CAVALLI:

Thank you very much, Marc. So your proposal would be that we consult with the GNSO, this first assignment. Marika, your hand is up. I don't know if you want to jump in now or just after Sarah.

MARIKA KONINGS:

I'm happy to jump into maybe address some of the points that were made and the suggestions, and maybe that will help us forward as well. To Marc's point, that's actually something we have already been working on. I think Michael spoke about it already quite some time ago, kind of a write up for assignments one and two. Of course, we need to update that with the recent conversations. But obviously, this piece is an important part of that so hopefully we can include it there.

I just wanted to note as well to the point that Steve made. That may indeed be a potential gap that's identified and something that maybe should happen or could happen. But that's not something that's currently required. Again, this is really focusing on what is currently required and currently enforced. So that's what this needs to reflect.

To Velimira's point, I think the compliance point is supposed to have been reflected in I think it's paragraph five. If people think it's not sufficient or there's something missing here, please feel free to point it out, but we copied and pasted some of the language that was part of the ICANN Org response that indeed demonstrate or shows that in certain cases further verification checks are applied in the case, of course, if there's indeed proven inaccurate data.

The last point to Sophie, it would be really helpful in that last paragraph, if there's a preference indeed to not have examples but maybe refer to specific contractual provisions, if you can help us with that and suggest indeed what could be included there so that it indeed reflects what the current practices, and then maybe

not single out specific registries, if that's considered problematic. That's what I wanted to say.

OLGA CAVALLI: Thank you very much, Marika. We'll pull up the queue. Volker, you're next. Welcome.

VOLKER GREIMANN: Yes. Thank you. I would like to thank staff for basically helping us cross that bridge that we haven't been able to find on our own. I think with this definition, we're already quite a substantial step forward from where we were last week ago. I would like to echo Marc in suggesting that this be taken as the basis for our response to Council.

Finally, I would also like to echo my concerns voiced about the final paragraph, simply because of the fact, in most cases, it's not actually a check of accuracy, it's a check of eligibility. So it does not really matter whether the data that is provided is fully accurate as long as the registrant is eligible for that domain name, and that's what these checks are all about. Many registry operators hand out their affiliate tokens like cookies to their affiliates without doing any checks. If it comes from an affiliate e-mail address, they get the token, it doesn't matter what they put into the WHOIS. The registrar just has to check whether the token is correct, and when they have the correct token, they get the domain name. So there is no actual accuracy check going on in many of these registrations. Therefore, I think this final sentence is misleading in

suggesting something to occur that does not necessarily occur in all instances. Thank you.

OLGA CAVALLI: Thank you very much, Volker. I have Sarah next. Sarah, the floor is yours. Welcome.

SARAH WYLD: Thank you. Good morning. Thank you, Olga, for taking over to chair in Michael's absence. I really appreciate that. Of course, also thank you, Marika and staff team, for putting this together. Sophie, I really appreciated your points on that last paragraph because it did have some nuances that I was not aware of. So I would certainly as well, I would support removing that paragraph entirely or maybe just modifying it. So I would defer to the Registry team on that one.

Responding to Steve's point, although I think it's been said, the registrar would definitely need to keep logs of how that verification is completed. But there's no obligation to disclose that to any third party. So I think we should, as has been said, just really focus this description on the current practices.

And then to the GAC input, I continue to think that processes which arise after an inaccuracy is identified are not properly part of the definition of accuracy. But that said, it's also difficult to respond to comments that don't have concrete changes included. So I would really ask that anybody with disagreements about this accuracy description should please provide suggested text in the shared documents or e-mail for us to all respond to. Otherwise, it's

just really difficult to fully address your concerns. I do like the suggestion to send this back to the Council. Thank you, Marika, for already being on top of working on that. Thank you.

OLGA CAVALLI: Thank you, Sarah. I was thinking exactly about the same, how to send suggested texts. We will talk about this with Marika as soon as we finish with the queue. Marc, you're next.

MARC ANDERSON: Thanks, Olga. I think I have a follow-up question for Velimira. Hopefully, I said that right. Apologies if I didn't. In your intervention, I understood you're talking about cases where the registrar in some way was notified of an inaccurate registration and the steps they must undertake. Then in chat, your chat message seems to indicate that you do not think that the additional paragraph five addresses your concern. Do I understand that correctly? I guess I'm asking—does it or does it not address your concern? And if it doesn't address your concern, then can you clarify why not? Because I'm trying to understand why not, or I'm trying to understand, I'm not sure I do. I think it's a clarifying question for you.

OLGA CAVALLI: Thank you, Marc. I see Velimira's hand up. I think she wants to react to your comment. Velimira, the floor is yours.

VELIMIRA NEMIGUENTCHEVA-GRAU: Thank you, Olga. Thanks for the question. So the first point is the following. As I said, I'm stepping in for Melina and actually I didn't have access to this document. So basically, the fifth paragraph such as it was in the document, which was forwarded to me, was not reading what is currently now and to what Ryan pointed me to. So I will be reading this very carefully and we'll come back to say whether this is addressed or not in terms of concern.

I think we did also respond to Sarah about the fact that we cannot provide it inputs. I think Melina is regularly from what they see providing input in your discussions in the intersessional work. So it will definitely be the case when she'll be back. The only thing is that I was warned that she will not be able to attend for health reasons just a couple of minutes before the meeting. Therefore, I apologize if I raised some issues which are concerned. But I'm reading carefully now the paragraph and I'm happy to come back on this in writing if needed. So the point is taken on the fact that we should be providing concrete suggestions how to input something. Thank you.

OLGA CAVALLI: Thank you very much, Velimira. I'm trying to keep on reading the text in the chat. I don't think it's valuable that I read it all. Marika, how can we capture all these inputs, comments, reflections about this text? Should colleagues make comments in a shared document? New comments about next step are welcome.

MARIKA KONINGS: Thanks, Olga. What we can do, we can put this document up as a Google Doc and share the link together with the notes so that people can make suggestions and prefer be it in the form of comments to this document and, of course, in line with what was discussed today. Again, really taking into account that this is focusing on existing and current enforcement and requirements and not the desire of potential future requirements or enforcement, and then hopefully we'll be able to come to a text that everyone is happy with and use that for our write-up of assignments one and two.

OLGA CAVALLI: Thank you, Marika. So I encourage all colleagues when GNSO staff shares the link, please make your comments. If someone made comments in the chat and would like to speak up now, that's the moment, because I see a lot of action and I'm not able to meet all of them and they are responding in between you and yourselves. So if not, we can move to the next point in the agenda. Let's give me one second and see if someone wants to speak up about this definition text. Thank you very much, staff. Thomas, hello. The floor is yours.

THOMAS RICKERT: Hi, Olga. Hello, everybody. I've just posted an excerpt from an online legal commentary to the chat. I know that there are many more, but I think that maybe we can advance the discussion by digging into the legal argument separate from the policy argument. Because I think that we can do all sorts of things as policy should the GNSO wish to do so. But if we are continuously hearing

arguments about what the GDPR requires and what it doesn't require, it's worthwhile noting that the language of the GDPR that is Article 5 on this aspect is not offering an awful lot of details. So we are basically landed with looking at academic literature and potentially court decisions or decisions by authorities in order to have this legal argument. I'm not sure whether we can really make progress by just saying what I think the GDPR states this and somebody else's while I think it says the other. I'm not saying that I have other wisdom and truth. But I think that probably that could be a way forward. I'm happy to maybe come up with a few suggestions on that. I'm not sure whether colleagues in this group will then believe what I put together, but maybe you can also take a look at some of the legal literature, and then we can see what we find and maybe get some sobriety to that argument, to that part of the discussion instead of just reiterating requests or opinions on that. Thank you so much, Olga.

OLGA CAVALLI:

Thank you very much, Thomas, for your comments and for clarifying what you already have written in chat. I would suggest that we go to point number three now and wait for Mike to come back and address the rest of point number two in the agenda if everyone is okay with my suggestion. As Marika said, that Google Doc will be shared. So you will have the chance to include your comments and your concerns in the editable document.

Okay. So point three is the gap analysis that we've been working with for a while, and we keep on reviewing it. Marika, would you be so kind to help us understand where we are at with this document? Marika, the floor is yours.

MARIKA KONINGS: Yes, of course. Thanks, Olga. So basically we did a first run through of this document during last week's meeting, and I'm hoping that those of you that were unable to attend that meeting had an opportunity to listen to the recording. So basically, what this document represents is the specific proposals that were made as part of the gap analysis in relation to how data can be collected to confirm whether or not existing accuracy requirements are met. There are a number of specific proposals that were made that we've basically documented here in the left-hand column. We then also looked at the potential upsides of that approach, downsides, and as well as possible next steps to kind of further explore whether or not the proposal is viable and here will hopefully lead to results.

So the updates that you see here in track changes are additions that I've made based on our conversation. Last week, there were a number of comments and suggestions that came up. We also suggested splitting one of the scenarios as we realized that there were two different approaches. There's still a couple of questions in here that we had asked, I think both the IPC and the BC, to comment on. I see Susan is already in the queue, so hopefully she has a response on that.

I think, basically, where we're currently at and, honestly, Susan actually has added something here. So maybe she can talk to that in a second. So I think where we're basically at is question for the group, if everyone has had the opportunity to review this and provide your input once you start looking at possible next steps and exploring these different proposals. As we've said before as

well, these are not mutually exclusive. It doesn't mean if we pursue Proposal A, Proposal B is no longer on the table. I think we're really looking here at different paths that the group may want to explore, because at some point, a door may close, and if we have about doors open, that may still provide valuable input and information. As we also discussed, of course, some of these proposals are dependent on the work that's being undertaken by ICANN Org and getting some clarifications on what can be done with ARS. So again, that's a path that has been identified here but may need to wait until we get clarity on that.

So I think that's where this document is at. As I said, there are some clarifying questions. I hope Susan will talk to the addition she's made. There's still a question as well here for the IPC. I think then the question really is for the group, is more time needed to review what is here? Or is the group kind of ready to start talking about the possible next steps and how to move forward on those. So I'll pause there.

OLGA CAVALLI: Thank you very much, Marika. Susan, the floor is yours. Then I will turn over to Mike. I think he's back in the call. Susan, go ahead.

SUSAN KAWAGUCHI: Thank you. Can you hear me?

OLGA CAVALLI: Yes.

SUSAN KAWAGUCHI: Okay. Perfect. Thank you. I made this vague reference to implementing RDS Review Team recommendations in the last meeting. It was requested that I actually put the recommendations that I think pertain to this in this document. I just did that this morning so people probably haven't had time to review that. My whole point is the review team made recommendations in 2018 that would have provided us more data and insight into the issues with inaccuracy if these were implemented, and I think these also could have been even with GDPR being implemented at that time and most of the data being redacted. I think there was still avenues that ICANN could have implemented these and taken action and we wouldn't be in the situation we're in right now. Obviously, these have not been implemented or at least not to the full letter of the recommendation, in my opinion. So these are more of a reference, it's more of the BCs always thought the recommendations should have been fully implemented, didn't agree with the Board's stance on some of these. And moving forward, we need the data. I mean, I think the crux of the argument is I believe there's an issue and many of the vocal contracted party representatives do not believe there's an issue. So we're constantly at an impasse because we don't have data. So that's where I stand on this and the BC stands.

OLGA CAVALLI: Thank you very much, Susan. Mike, I don't see you. Are you there? Should I follow?

MICHAEL PALAGE: If you can maybe just do that and just transition since I just joined. Yes. If you could just perhaps respond to that. I'm just trying to read through the chat.

OLGA CAVALLI: Well, the chat has been quite intense, especially about the finishing part of the call. Marika, do we still have some issues about point two of the agenda that we were waiting for Mike, or we can move forward? Marika, go ahead.

MARIKA KONINGS: It may be helpful to first finish up this conversation and then go back as it is. Mike, we didn't go to the survey that you had circulated, as we thought it might be better for you to talk about that instead of us trying to explain that. But I don't know if we first want to finish up on the proposal discussion.

MICHAEL PALAGE: The definition can wait. Let's finish this up because I think the gap analysis is important. Hopefully, now that we appear to have consensus, I know Alan and others had raised concerns about trying to do this gap analysis homework without having a more clear definition on the definition. So I think it is appropriate to revisit this homework assignment in light of us with having this new definition. I think just picking up on the chat—and I think I had raised this point earlier with Steve. I have no issue with those people that have a legitimate interest in accessing the data, ensuring that those people get accurate data. But I think to the point, again, going back to our charter and where we can and

can't deviate from it, I don't see us being able to reopen the access issue that I would say was pretty much resolved. If you read the charter, there is talk about we can potentially make recommendations to revisit the purpose in assignments three and four. But at this point in time, I really think it's in our best interest to focus in on accuracy. And whether it's law enforcement, whether it's a trademark attorney, a cybersecurity researcher, or ICANN Org doing compliance checks, let's just focus on the accuracy of the data that they're getting when they get access to it. I think that would probably be the best use of our time. Because if we try to reopen that up, it's only going to make, Berry, that much more right for us being late and not meeting our timelines. Marc Anderson, I see you have your hand raised. You have the floor.

MARC ANDERSON:

Thanks, Michael. I raised my hand to an older—I guess what I thought was a question from Marika of basically asking the group what next steps were interpreted that essentially to be asking if we need more time with review and feedback on the proposals or if we're ready to sort of go to the next step and start talking about how to actually implement some or multiple of these. So hopefully I got that right. But essentially, I'm ready to just start talking about. So I would like to go on to the next step of having discussions about what comes next with these how to move forward with several.

MICHAEL PALAGE:

Okay, Marika. I see you have your hand up.

MARIKA KONINGS:

Thanks, Michael. Just to respond to Susan. I think we may need to kind of check back what the ICANN Board did with these different recommendations. Because if I recall, while to think some were adopted, some were put in hold status, I think some were referred to others, I know, for example, and it's what we put in our comment as well, I think the CC1 recommendation that you also added to the list, I think, was actually referred to the GNSO Council. I think the Council still has that on its list to further consider. So it may be helpful for the group to at least know where these different recommendations stand to see if that is indeed a path to pursue or to encourage or further investigate to be able to obtain some of that data. Of course, I think there's some aspects here because I know one of them also refers to ARS, that those are of course being addressed by other proposals as well.

Coming back to Marc's point, yes, I think it's exactly where we were hoping to go. There is still a bit of cleanup that needs to happen. As said previously, there's here as well the question for the IPC. This is basically the proposal. It is what comes from their suggestion, but it is currently a bit of a mix of different things. It refers to ARS, it also seems to refer to third party study, it also refers to monitoring. So we're hoping that the IPC reps can have a look at this and see if this is indeed a stand-alone proposal, and if so, formulate it in that way, or if this is already covered by the other proposals that are in here, that they can basically delete that entry or indicate that it's already covered somewhere else.

As said, for some of the other items we have identified, kind of specific next steps, obviously that will require some work and

further consideration. So I don't know. I don't know, Michael, do you want to start with the first one and see what can be done specifically in the case of that one and what next steps are? Do you first want to give the group a little bit more time to look at this again and really make sure that we've considered all the upsides and downsides and potential and next steps? How would you like to proceed?

MICHAEL PALAGE:

I was just thinking about that. Before getting to the proposals, I do think we do want to give the group a little more time to perhaps revisit their gap analysis in light of the new definition. I'm just mindful of some of the challenges that Alan and other members were raising. So I think we need to start with the proposals. I'm agreeing with Marc. I think we need to start in with that, yes, and I stand corrected. Now that we've hopefully completed assignment one with our—not definition construct—but now that we've completed assignment one, that should provide a foundation for us to do the gap analysis, and then go and begin to look at the specific proposals. That's what I'm thinking. Yes or no?

MARIKA KONINGS:

Michael, just to note, as you kind of missed that part, we didn't finalize the work on the description yet. The group has asked for a little bit more time to look at the text and the Registry reps have agreed to suggest specific language for that last paragraph and noting that they had some concerns about that. So the hope is that we are able to complete that hopefully on list in the course of the next couple of days or at least prior to the next meeting.

MICHAEL PALAGE: No, Volker. You go straight to jail and you don't collect \$200 when you pass GO. That's an inside joke for the chat discussion. No, Volker. I don't think we need to go back to square one. I think, hopefully, once we finalized that assignment one, that will just facilitate the gap analysis and the proposal. To Marc's point, I think we can start looking at the proposal stuff right now. I don't think we need to view these as being sequential. I think we could have this running in parallel to make most effective use of everyone's time. Does that sound reasonable to you Marika?

MARIKA KONINGS: Sorry, finding my mute button. Yes, I think that's right. As you know, what we're looking at here is proposals to be able to confirm whether existing accuracy requirements are met. So indeed, it is helpful if people look back to the description, even though some tweaks might be made as a result of today's conversation, I think, to a large degree, I hope everyone has a clearer picture of what is currently required and how that is enforced. So we're really looking at how to confirm that those requirements are being met, and that is what these proposals are about. So indeed, if groups need to go back and kind of align those two in a better way, they of course have the opportunity to do so. But as you know, that probably shouldn't prevent us talking about these now.

MICHAEL PALAGE: Excellent. I guess the broader question here regarding these proposals, what I'm thinking back to is the specific recommendations, perhaps maybe some of these proposals may tie into some of the recommendations that may be made to the European Data Protection Board, that we may be able to kill multiple birds with one stone with that. So perhaps what I will do here rather than making recommendations—correct. But sometimes when you make a proposal, you may be asking for questions. Because remember, you're talking about what about surveys? Maybe I'm wrong, Sarah. I don't know. I just threw that out there. I am not committed to that one way or the other.

So, Marika, do you think the best use of the remaining 25 minutes of our time today will be to revert back to this proposal document, which is where we were at prior to our ICANN73 meeting? Do you think that would be the most efficient use of our time?

MARIKA KONINGS: Yes. I think especially looking at those proposals that are not dependent on a response from the EDPB or the scenarios, because in particular, I think proposals A, B, and D are not dependent on a response on whether or not ICANN Org can access that data for the purpose of ARS. So it seems that these might be scenarios that the group can focus on and start pursuing. Again, there's not that dependency at least from my understanding.

MICHAEL PALAGE: Excellent. Can I turn it over to you? I forget where we were at in our alphabets. I know we were further down, or do you want to drive here on this?

MARIKA KONINGS: Sure. We did go through all of them during our last meeting. We made a couple of updates based on the conversation during last week's meeting. So I can just maybe briefly recap that and that maybe refreshes people's minds or may trigger further input or comments.

The first proposal was to serve registrars and have them report on their accuracy requirements. There were a couple of specific questions that were already identified, I think, partly by the Registrar team and partly by the Registry team. Of course, we didn't know that there is no requirement or registrars could not be compelled to provide this information. This would be on a voluntary basis. One of the points that was raised is, does that mean that the only good actors may respond and therefore there's not a full picture that is provided? But at the same time, this might be information that would allow for some tracking over time or it could be done on a regular basis so that maybe there is a way to determine trends and if this is deemed helpful or maybe there are incentives that could be provided to encourage participation in such an effort.

So the possible next steps that we had already identified here is that, of course, this will require engagement with the Registrar Stakeholder Group, which would likely serve as kind of the

intermediary or at least that would hopefully help with the outreach on this and see is our willingness to help with such a survey.

The group will also need to further consider what are the questions that you want to ask? There's, of course, already the questions that are listed here but maybe there are others that will be helpful. One of the suggestions was made, maybe it's also helpful to ask what registrars are specifically doing to validate and verify, and maybe there are some lessons that could be learned from that and get more practical information on how that works.

As I noted already, some suggested as well, maybe there could be an incentive provided that would encourage participation in such a survey. Someone also mentioned that there might be a need for a type of compliance amnesty. If registrars would be concerned that if they would participate and for some reason it would be deemed to be non-compliant, then that would be an enforcement action.

There was also conversation around if there is value in such reporting, if the scoping team could consider if or how to make reporting a requirement, and this probably gets us already in the kind of assignment three, four conversation, because if this is identified as a potential gap that currently exists, that there is no such reporting so that makes it difficult to track. It is something, of course, that the group would further explore.

I think then there was also a suggestion that the survey could be conducted in multiple languages to attract a wider pool of responses. So I think that is the input that we had this specific item. I think I probably would want to look at the Registrar team

colleagues here for their feedback and assessment. I'm guessing we would probably rely on them heavily to make something like this work and promote something like this if the group, of course, believes that there's value in pursuing this path.

MICHAEL PALAGE: Marc Anderson, you have your hand raised. You're in the queue.

MARC ANDERSON: Thanks, Mike. I would really like to hear from groups other than Registrars on this. I think the idea initially came from Registrars. And personally, I think it has merit but if it's just sort of registrars asking themselves a handful of questions, then that I'm not sure it's going to move the group forward. I would think that there's probably some questions that other groups would like to ask registrars about accuracy. But I could be wrong here. So I would like to hear from other groups, do you think there's value? Are there questions you would like to ask? Do you think there would be value in getting the answers? For what it's worth, I think it is. I think this is something we should explore further but I really want to hear from my colleagues outside of the Registrar Stakeholder Group.

MICHAEL PALAGE: Thank you, Marc. Alan Greenberg, you have the floor.

ALAN GREENBERG: Thank you. I guess I agree with Marc. I'll give you perhaps some examples. There are other questions that are not listed here but have been referred to peripherally. At one point, someone—and I don't remember who said it—said registrars are obliged to verify only e-mail or telephone numbers, but some registrars verify both. It would be useful to do a survey, and whether we attribute the answer to a particular registrar or simply try to say what percentage of the market does this apply to, either way, I think we get interesting information.

One of the new questions forwarded to ICANN Org was in reference to point number four here under the rate of e-mail bounces. It's unclear whether registrars are required to track e-mail bounces on the reminder policy or not. Clearly, if the answer comes back from ICANN Org saying, "Yes, they are obliged to track bounces," then we have some other interesting questions that could be asked. If the answer comes back "No, they're not," there's still some more specific questions that could be asked.

So I think this has merit. The real question is it only has merit if we get answers from a significant number of registrars. So if the registrars around this table, for instance say, "No, we're not going to invest the effort in doing this if it's not required of us," then the whole thing really falls apart. So I think we need a little bit of clarity on whether this could really happen, and if so, we have to revisit the questions and try to flesh this out to make it as useful as possible. Thank you.

MICHAEL PALAGE: Sarah, you have the floor.

SARAH WYLD: Thank you. Alan, I'm sure you can guess what I'm going to ask. I'm sorry. I know we've talked about this before. I understand perhaps there's a concern that some registrars are not doing what they're supposed to. Maybe that's what you're saying and I just misunderstood. But don't we agree that it's mandatory? It's in the policy. Thank you.

ALAN GREENBERG: I did put a question to ICANN Org through this group and I presume it is being submitted. I understand your belief is because the accuracy specification makes reference to a bounce being a reason to know that the data has to be rechecked. Other registrars over the period of the EPDP have said, "Bounce tracking is really very difficult and we really don't want to do it." This was said primarily in response to, if we use a web contact form or a pass through e-mail address and encrypted one, should the requester be notified that there was a bounce? Some registrars have said that's too difficult. So the question has gone to ICANN. If ICANN says yes, everyone is obliged to be tracking bounces and follow up on it, then they're agreeing with you and everything is copacetic. But it's not 100% clear to me that that is indeed the policy and not simply an example of if you track bounces, then you must act on them. I'd be happy to have ICANN Org tell us that yes, it's obligatory and it's something they check up on and something they can audit. That would make me feel much better.

MICHAEL PALAGE: Okay. As I tried to read—Sarah, do you want to respond?

SARAH WYLD: I do. Okay. I'm happy to leave this here then, and thank you for your patience with me. We'll see what ICANN says. I do think that there's an important difference between the registrar being required to take action and to verify or re-verify the data versus the requester being notified that the info bounced back. I just don't think that's the same thing. But yeah, looking forward to seeing what ICANN says in response to this whole thing. Thank you.

MICHAEL PALAGE: Marika, I want to check in with you to see what you believe is the most efficient use of time. Do you want to jump ahead? I believe some of the questions that Alan had raised actually are on the next agenda item, we have 13 minutes left here, would that be a good way of jumping ahead, addressing that, and then perhaps providing clarity to what can or cannot be asked to the registrars? Or do you want to just stick with this document and continue to go through? I'm leaning on you on how to make best use of our remaining 12 minutes.

MARIKA KONINGS: No, it may be helpful to jump to the questions because getting those kind of signed off and submitted may bring some clarity to this specific issue and determine whether or not that is a question that needs to be asked here as well. I think, in the meantime, we can discuss again this first one. So I'm really hoping that in between now and next week, people can have a look at this

document, provide additional thoughts, look at some of the outstanding questions. I think during next week's meeting, we can really hone in on. Okay. So how are we now going to define these questions? What should the survey look like? How can we make sure that it's not too onerous so people don't respond? What kind of incentives could be considered in participating? So having said that, I think I'll—let me see the document, I believe it's here.

There were a couple of questions that, as you may recall, were circulated on the mailing list a while back. I think there were a couple from you, Michael, but I'm suspecting that those maybe are being addressed through the outreach that's being done because that goes to the legitimate interest to access domain name registration data. So I don't know if those need to be discussed now or whether those are basically being covered in that way.

Then there were a couple of questions from Alan that I think go to the point he just raised. Hopefully, people can see this. I'll zoom a little bit out so maybe you get all the questions. So I'll just focus on the questions that Alan had identified. I don't know if Alan wants to run through these and see if anyone has any concerns or issues about these. And if not, we can basically let Brian know that he can take these back to all colleagues for a response.

MICHAEL PALAGE:

Alan, would you like to walk through and explain? Or do you think they're self-explanatory? The floor is yours.

ALAN GREENBERG: I think they're relatively self-explanatory. I've explained them again those few minutes to some extent. If someone has questions about if it's unclear, that I'm happy to go over it and maybe we'll find something that isn't clear and has to be corrected. I can spend the time reading the words to everyone but I'm not sure there's a lot of merit in that. But you may want to scroll up back to the top of it so people can read from the top if that's what they're going to do.

MICHAEL PALAGE: Okay. Marika, can you throw the link to that document in the chat for people? Thank you. Again, what I am always reminded, all of the documents, all the links do appear on the wiki. I myself have found that with minimal navigation, you can find all of our assignments, works, and other things on the ICANN wiki, so shout out to that resource which is available.

ALAN GREENBERG: Moreover, they often appear on the agenda of the meeting where we looked at them. So sometimes that's easier to find.

MICHAEL PALAGE: Yes. So with that being said, I don't know if we're really going to be able to get a lot done in nine minutes. So are there any last questions, comments, or concerns before I propose wrapping up? There we go. Sarah?

SARAH WYLD: Thanks. Alan, when we've talked about this question, you seemed interested in notifying the form user of the bounce back. But that is not represented in the question here on screen. So I just wanted to make sure that the questions that get sent to ICANN will satisfy all of our open questions. Thank you.

ALAN GREENBERG: I mentioned the form users or encrypted messages as an example of when registrars have said no, they don't do bounce tracking because it's too difficult. Now, if it's too difficult to do it here, then it may be too difficult to do it on the reminder letters. If the reminder letters are the issues—what we're looking at here is accuracy. Now, if for registrars that use e-mail for the reminder notice—and that's a very large number of them—if they track bounces and act on them, then that means there's a huge number of the existing installed base that have had their e-mail addresses, to some extent, verified on a regular basis. That's very, very different than if they're only done when the domain was registered or on a complaint. So if all registrars are tracking bounces and acting on them, that's putting a much higher level of accuracy on the installed base than I previously thought there was.

So I'm asking these questions. If the answer comes back, "Yes, everyone does this and we audit it," then the whole accuracy problem gets much better than it would be otherwise. So that's why I'm asking them. I'm trying to understand how serious is the problem? And if this is happening, then there's tracking and acting on it, then we're in a much better situation than I thought we were going into this whole exercise.

MICHAEL PALAGE: Marika, you have the last word.

MARIKA KONINGS: Thanks. So I just want to confirm that Brian can take questions three to seven back to our ICANN Org colleagues for a response. Is that the action item here?

MICHAEL PALAGE: I believe it is. Again, with regard to my questions, I just proposed, unless there's anyone else that wants to second that then we just ... I just proposed or suggest, so unless anyone wants to agree to that, let's just move forward with sending Alan's specific questions to ICANN Org for answering. I just tried to be a catalyst. That is be a catalyst and steer where possible. So with that, unless there are any final words, wrap up. Stay safe, everyone. I look forward to seeing everyone next week. Bye.

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

[END OF TRANSCRIPTION]