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## ICANN Transcription

### Registration Data Accuracy Scoping Team

Thursday, 24 March 2022 at 14:00 UTC

Note: Although the transcription is largely accurate, in some cases it is incomplete or inaccurate due to inaudible passages or transcription errors. It is posted as an aid to understanding the proceedings at the meeting, but should not be treated as an authoritative record. Attendance and recordings of the call are posted on agenda wiki page: <https://community.icann.org/x/6xQiCw>

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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 24<sup>th</sup> March 2022 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 no listed apologies for today's meeting. Statements of interest must be kept up to date. If anyone has any updates to share, please raise your hand or speak up now. Seeing or hearing no one, if you do need assistance, please e-mail the GNSO Secretariat. All members will be promoted to panelists for today's call.

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*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.*

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As a reminder, when using chat, please select “everyone” in order for all to see the chat. Observers will have view only to chat access. Alternates not replacing a member are required to rename their lines by adding three Zs to the beginning of your name and at the end, in parenthesis, 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 room functionalities such as raise 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, those who take part in ICANN multi-stakeholder process are to comply with the expected standards of behavior. With this, I’ll turn it back over to our chair, Michael Palage. Please begin.

MICHAEL PALAGE:

Hello, Terri. Hello, everyone. I don't think we have much of an update to do. I think we just really should be able to dive in and, hopefully, try to wrap up the accuracy working definition. So, if we could, please, Terri, pull up on the screen the current mark-up? If you could blow that up for the visually impaired or the elderly? Okay. So, Sophie, you have proposed a mark-up. So what I’m going to do, Sophie, is I’m going to give you the floor to explain your proposed definition, and then I will open it up to the rest of the participants to see whether they have any comments/suggestions. So, you have the floor, Sophie.

SOPHIE HEY:

Thanks, Michael. So, yeah, there are a couple of changes. The first one that you can see on screen, it's just changing the overall introduction to it and to incorporate the references to the true, correct, and free from error, or degree of correctness. Again, recognizing that we may want to retain both bits of language from the poll Michael sent around, or just pick one.

But most importantly, we've included the "when measured against a specified standard." This is particularly important, in my opinion, when it comes to assignment two for the Accuracy Scoping Team as we need to be able to measure accuracy and to be able to assess whether registration data is true, correct, free from error, or what degree of correctness. You need to have a standard against it.

So, that's the first part that I wanted to flag. And then, sorry, would you mind scrolling down a bit further? Thank you. I have also proposed some alternative text to the original text that was there talking about the base Registry Agreement. And I also sent around on the list some of the context behind this particular language.

So, it's just to outline that there are no explicit provisions in the base Registry Agreement that refer to the accuracy of registrant data but there are some specifications and even, in some instances, individual unique contract language for certain gTLDs about eligibility requirements and those eligibility requirements in the auditing, and that may inform some of the discussions we have around the accuracy of registration data. I'll pause there. Happy to

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talk more about this language and hear any comments people might have about the changes I have proposed. Thanks.

MICHAEL PALAGE: My first question is, when did you send it to the mailing list? I did not see that. It could have been-

SOPHIE HEY: Yesterday.

MICHAEL PALAGE: I had a busy day yesterday. I'm not seeing it but I will go into the archives and I will find that out. So, your proposed changes here which reference ... So, do you agree or disagree, then ...? Well, not you. Is it the position of the registries that Spec 13 does not apply? I'm just trying to understand why you ... You originally were talking about trying to strike specific references last week to .arrow and .bank and not call out any specific TLDs. Is it the position that Spec 13 does not involve any accuracy requirements when the registry operator submits those annual statements talking about ... What is it? The registry operator affiliates or trademark licensees?

SOPHIE HEY: To jump in on that one, Specification 13 is definitely about eligibility criteria. What I'm really curious about ... And the specific instances were the callouts of the specific ... For example, .arrow and .bank. What I'm really curious about is what other people think about our view that Specification 13 is about eligibility criteria, and maybe the

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audits done on Specification 13 registry operators annually. Maybe that's something that might be useful to consider. But I'm really curious to hear what the rest of the group think about our position on that. Thanks.

MICHAEL PALAGE: I agree, as well. Lori, you have the floor.

LORI SCHULMAN: Yes. I want to thank Sophie for offering this alternative language because I do believe it captures the spirit, if not the callouts, which seem to be the concern. The one thing I would offer, I don't see the auditing referred to here, and I think auditing is important in our discussion in terms of how we think this is going to move forward, whether the audits in ICANN audit or some other type of audit, an internal audit. I heard Sophie relating to that language about auditing but I don't see it in the proposed alternative language. Other than that, in principle, I don't think that the IPC would have any objection to this.

MICHAEL PALAGE: Okay. Sarah, you have the floor.

SARAH WYLD: Good morning. I hope everybody is well. Going back to the question about Spec 13, my understanding ... And thank you, Sophie, for sending that e-mail with the links. Super helpful. If it's for a .brand TLD, which has very specific requirements around who is able to

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control that DNS or register those domains, that does not seem to me to be a good analog to regular domains. It seems like there is a reason why a .brand TLD might have extra requirements that would not be applicable for a regular gTLD. So, with that said, I do want to just overall say that I really appreciate Sophie's input here and I would support these changes to the definition. Thank you.

MICHAEL PALAGE: Okay. Beth.

BETH BACON: If Sophie wants to respond to the question while it's fresh and then I can go, that's okay.

SOPHIE HEY: Okay, yeah. I'll jump in real quickly. So, again, we didn't put in the reference to the auditing in this particular definition because we were focusing on that base Registry Agreement. And maybe this isn't necessarily the appropriate test, but when I think of base Registry Agreement I think of all the specifications that are contained in that PDF called "The Base Registry Agreement."

Specification 13 isn't included in there, hence why the auditing is a bit separate. Having said that, I think, for instance, the audit reference is in the background information I included on the list. So, if we did want to go and include some of that information, including the Specification 12 and Specification 11 information, in our output, I think that could work well.

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MICHAEL PALAGE: So, I would like to go back to Sarah's comment. I believe that we're not just ... I believe our task here is to look at accuracy as a whole, not just the major TLDs. So, I think our job as an accuracy scoping group is to accurately document the entire gTLD landscape. That's my position. Does anyone disagree with that? Sarah?

SARAH WYLD: Thank you. I just want to clarify what I was suggesting, which is that a specific requirement for a special use case should be documented but should not be the standard for all of the service that doesn't match that special use case. Thank you.

MICHAEL PALAGE: Okay. Can you repeat that again, Sarah? Because I am trying to just ... Part of what we need to do is have ... I'm trying to prevent what I have seen as a result of the recent ODA, where there are lots of gaps. So, our job here is, if we can identify the current landscape ... And I'm just trying to figure out how we go about documenting that. The TLDs .bank, .arrow, .pharmacy, .insurance, how do we go about documenting that they have requirements as community or sponsored TLDs? How do we go about documenting the requirements of brands?

And then, those that have none of that ... Those other contractual requirements. That's what I'm struggling with. How do we reflect that in this definition so that, when someone looks at it, they could say, "Yes, the entire gTLD marketplace was taken into account"? So, Beth, maybe you want to go? I see Beth, Marc, and Alan.

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BETH BACON:

Sure. Thanks. Hi, everybody. How is everyone on this fine morning? So, I think that what we're saying here ... And we're hearing some support from Lori and I appreciated that. It's the view of the group that the definition should represent that common baseline from which to measure, and that perhaps those things that were called out, where the registries are clearly saying we have a concern there because they don't represent a baseline or a picture of the most common approaches and requirements ...

We're saying that those can inform—and those kind of special cases in Spec 13 could inform our discussion with regards to gaps. Maybe there is something that would be appropriate for a baseline. But this is ... I think that this definition is meant to capture the accepted base for most of the registries and registrars. Things that are common, the requirements that are common to all registries and registrars.

So, even if you have a Spec 13, you still have all these other requirements—the requirements in the base Registry Agreement. And I think that that is what I'm hearing from the group, that there was some support. I think there was some support in the chat. So if that's what the group wants, I think that's what we should go forth with and I think that that is appropriate.

And then, I do think that it will be captured in the discussion of gaps, when we talk about, are there things that we could do better, different, alternately, whatever? So, I think that we are supportive of this language and we think that it does, in fact, say some specifications to the Registry Agreement relate to eligibility

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requirements. If that's something we need to expand on again in our later phases of discussion then let's do that. Thanks.

MICHAEL PALAGE: All right. Marc?

MARC ANDERSON: Thanks, Michael. I'm not sure how much I can add onto what Beth has said. Very well put, Beth. As is often the case when there are questions on what we should be doing, I go back to our charge from the GNSO Council. Dropping in chat. I think this is the relevant portion. This is from test number one to assess the measures, including corrective measures, used by ICANN Compliance to monitor, measure, enforce, and report on accuracy.

Listening to you speak, Michael, I found it interesting that you seem to be taking the approach to include in a definition everything that every TLD, registry, or registrar might be doing related to accuracy. That seems not ... That does not seem like the way to go. There are a lot of TLDs and a lot of variations. I think the best point that we should be focusing on is, what is the baseline? What is the base obligation that is required by everybody?

That should be our focus, not trying to boil the ocean and understand every little thing every registry or registrar might be doing, especially when what they're doing is different from the baseline. As Sophie and Beth noted, there may be value in understand what some of these other TLDs are doing and it may inform our work later on. But I don't think we should be trying to boil

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the ocean with the definition. That seems like not a good use of our time.

MICHAEL PALAGE:

Marc, let me ask you this question. As I said, what happens is, on the chair, if the group says there is consensus on X, we do X. My job is to sit there, play devil's advocate, make sure we've covered all the different avenues, facilitate discussion, and then move forward. So let me ask you this question, Marc. This group, basically, was an off-shoot of the work of the ePDP. This was one of the things that we ... The genesis of this was a specific output of ... I think it was ePDP Phase 2 or Phase 2A. I don't remember which exactly.

If you look at what the ePDP was a result of, it was a temporary spec that was a result of the passage of the European Data Protection Law. So, what we tracked this all back to was the passage of the GDPR and how that national law impacted the overall contracted parties. And there was generally universal recognition that registries and registrars must comply with national law and, because of that, we need to address that. Would you agree or disagree with that?

MARC ANDERSON:

I'm not sure exactly what you're asking me to agree or disagree with but I think you're asking me ... It sounds like you're asking me, if contracted parties are required to comply with national law, which obviously the answer is yes ... Although, I may tweak that and say contracted parties are required to comply with applicable law.

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National law may be a little open-ended. But if that's your question, I hope that answers it.

MICHAEL PALAGE:

Okay, perfect. I would agree with that. So, here's what I'm trying to reconcile. Again, just talking about accuracy, whether it's a conformance ... Just looking at accuracy here. With MIIT, they specifically have real-name validation. That is required. And I think I was even on the MIIT website today. So, there, I just posted that link in the chat. There, you can see all of the ICANN gTLD registries, both IDN as well as ASCII, that have signed up and, as part of that, in compliance with applicable law, are doing real-name verification.

So, to me ... Again, I just ask this question. If that is applicable law, that says "real-name verification," how does that get reflected in the totality of what we're doing? Or maybe the group says, you know what, Mike? Don't look at that. That's out of scope. We're just not going to look at that.

Now, the reason that I am raising this question is we are mindful of what's going on right now with Article 23 and the NIS2.0, which is going to potentially oppose obligations on certain contracted parties regarding accuracy. So, it would be really helpful, I think, if this group looks at existing accuracy requirements.

And as I said, if this is something where ICANN Compliance is not going to look at violations of national law, if they come back and say, "We're not going to do that," great. Okay. Then we just look at the contract. That's what I; much just trying to figure out. Where does ICANN Compliance start? Where do they stop? When does a

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violation of applicable law give relevance to security and stability? I don't know. I'm just asking these questions. Alan?

ALAN GREENBERG:

Thank you. I'm not sure why we're spending as much time on this as we are. Sorry. I see Sophie has just changed what she had there and I haven't looked at the new version. I would certainly not be unhappy if the statement ... Before it said, "They may have some specific additional accuracy requirements which may inform our discussion." I would not be unhappy if just before "which may inform our discussion" it said "which are applicable to those TLDs and subject to normal contractual conditions."

All that is saying is specific TLDs may have requirements. The next TLD may have some really obscure requirements that go over and above anything anyone imagines in today's definitions of accuracy, and that's fine. The fact that we're adding "may inform future discussions" I think is almost gratuitous but it's a nice addition, which says we may want to look at those.

But anything more than that, I really don't think it needs to be in the definition of the ... I use the term "definition," but in the description of the current usage of accuracy. We have a lot of work to do after this to look at what accuracy should mean, and what is going to be enforceable, and how do we do it.

But I'm not sure that we need to be any more specific about the current requirements other than to say some Registry Agreements have accuracy requirements. They are enforceable. They are,

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perhaps, auditable, and they may be worth looking at going forward. I would say leave it at that. Thank you.

MICHAEL PALAGE: So, based on that, do you ...? Just mindful of the queue here. Do we want to just ...? I have no objection to leaving this as it currently is right now. Any objections?

ALAN GREENBERG: I think we all better make sure we see what the changes are. Since there is no mark-up, it's hard to see what they are.

BETH BACON: Yes, Michael.

ALAN GREENBERG: If I still have the floor? I'm not sure self-auditing ... I would put "self-auditing obligations." If they are contractual obligations they may be subject to other auditing things, depending on what the words say. So, I would say they are subject to enforcement as per normal contractual conditions but I wouldn't limit it to self-auditing there.

MICHAEL PALAGE: Beth, you have the floor.

BETH BACON: Yeah, sorry. You said, "Are there objections?" My hand is already up. So, I don't have an objection, and I do appreciate that little edit

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that Sophie was able to do on the fly, so I hope that satisfies Lori's previous comment, which I thought was a good one. Alan, I agree. Alan G? Oh, the other Alan is not on. Okay. I didn't know if I had to clarify. Alan, I agree with your comments. I think that there is some clear consensus around this as a baseline definition. I do see that there has been some text added above Sophie's. It looks like Melina added it.

I do have a concern that that is not necessarily representative of the existing requirements and is another thing that is for the future gap analysis discussion, which is what, Michael, you were proposing. I think all of those items of questions and thoughts about the impact of other laws, as well as the requirements that exist in other laws, are the gap discussion. This is the baseline.

So, Melina, I don't disagree that this is something to discuss, but I don't think ... Because the previous text notes that it's capturing the existing obligations in the RAA and that's not necessarily something that is in the RAA, but maybe it's something we discuss that fills a gap. So, that's the only reason I wouldn't put it here. But other than that, I am delighted. Thank you.

MICHAEL PALAGE: Alan, you could add the last ... Okay, no. Alan and then Melina. Is that an old hand, Alan?

ALAN GREENBERG: No, no, it's a new hand. I'm just trying to get my brain in order.

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MICHAEL PALAGE: Well, put it this way. What I'll do is I'll let you get your ...

ALAN GREENBERG: I'm ready to speak. I'm worried that we're looking at the other changes and haven't closed the discussion on the original one that Sophie did. I'll note I also had another comment up on a page. It isn't visible right now.

MICHAEL PALAGE: Can we scroll up to the top?

ALAN GREENBERG: I would have preferred if we finished that discussion. But in response to the last comment, according to Compliance, this is something that they would enforce today based on the response that Compliance gave us or ICANN Org gave us. So, if what is being said is the registries and registrars disagree with Compliance, I'm not quite sure how we handle that disagreement in this form. Thank you.

MICHAEL PALAGE: Okay. So, one of the requests I just had from our ICANN Org colleagues is people are making simultaneous changes to this document right now, which makes things a little more challenging. So, if we could perhaps ... If you do want to make a change or you do have a comment, if you could perhaps just hold off right now while we're discussing it and perhaps just verbally raise this in the queue, explain what you were proposing, and then we can perhaps

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deal with this intersessionally. That is, again, just trying to be mindful of our ICANN Org colleagues that are juggling multiple things at the same time. Alan, did you want to speak to the top of the document as well? I know you were just talking about the bottom. Are you done and can I go to Melina?

ALAN GREENBERG: I'm done right now but I would really like to stay on topic. Jumping back and forth I don't think serves us well.

MICHAEL PALAGE: Okay, fair point. Sometimes multitasking can be detrimental so point noted there, Alan. Melina, you have the floor.

MELINA STROUNGI: Thanks, Michael. Hi, everyone. I apologize for inserting these comments a bit late and kind of interrupting the flow. I don't want in any way to interrupt the flow of the discussion. I will just reply to the last comment I heard and we can follow whichever order you think is best. So, basically, how we understand this exercise now is that we have to document the current contractual requirements and the current enforcement. This is our assignment, to see what is currently there. This is like the baseline.

So, the GNSO has clearly instructed us, when doing this, we have to take into account input from ICANN Compliance, which makes sense because this is the enforcement side of things. So, I saw that, already, some input from the ICANN Compliance was already included in the paragraph before the last one. What we wanted to

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make sure is that the complete input is taken into account. So, we have the whole current reality in place.

As Alan said, this is the baseline. This is what currently happens. It was confirmed by ICANN Compliance also during the ICANN week. They did confirm that these elements are important when looking at the current reality. So, this is really like the baseline. We're just stating what is factually there and just using the precise words from ICANN Compliance that is not added to this wording. So, any wording I am using is just a quotation from an official source. That said from my side, and I don't want to interrupt the flow so we can come back later to this point. Thank you.

MICHAEL PALAGE: Marika?

MARIKA KONINGS: Yeah. Thanks, Michael. Maybe to wrap up on the last item, because I've seen that people have been making some suggestions in the chat. So, what I'll do is ... Because I think there is a principle agreement to the language that Sophie had that people are struggling a bit with the additional changes that were made, and I think there is already another suggestion. So, what I'm going to do, I'm going to accept these changes here so people can see it. And what I've seen in the chat is agreement to delete the self part. So, it would read this.

I think that's my ... At least from what I've gleaned from the chat, I think that the agreement there on what, at least, this paragraph should look like and represent. And if that indeed is the case, maybe

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we then can go back to some of the other changes. So, just maybe looking and seeing if this works for everyone. And of course, we can share this document again at the end of the call so people can, of course, have a final look to really make sure that nothing is left out or forgotten. And yeah, as you said, it is, of course, difficult as changes are being made while people are talking. It's difficult to keep up with that.

MICHAEL PALAGE: So, if I can ask ... What I see on the screen right now, I think, is consistent with what I have heard the group discuss. We have auditing obligations, which I think Alan and Lori were, I guess, referencing. We have talk out the word "self," which I believe was a concern. Right now, I believe what appears on the screen right now is ... There seems to be consensus. So, if I could, Brian, if you could put your hand down, or Marika, is there anyone right now that would oppose to this current wording as it appears now? Beth.

BETH BACON: Can I go? Do you think that you could maybe give us three minutes to maybe talk about it?

MICHAEL PALAGE: Yeah. So—

BETH BACON: I'm still talking. Sorry. It's because there is some new text and I just wanted to be sure. Thank you.

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MICHAEL PALAGE: So, Beth, let me be very clear here, as a chair I was not going to close future discussions. This definition will stay open. I was just trying to get, if you will, hum if we were the IETF, is there ... Does this seem like we're going in the right direction? So, nothing is going to be precluded from review.

BETH BACON: Okay. Thank you very much. If we want to do a ccNSO, we're all holding up yellow cardboard?

MICHAEL PALAGE: There we go. Perfect. Brian, you have the floor.

BRIAN GUTTERMAN: Thanks, Michael. I'll be quick. I think I'm humming along but maybe, as we do reach a conclusion on this baseline, I would offer, again, maybe one additional quick review from my Compliance colleagues to level-set one more time, because we have already layered in what their interpretation was at least a couple of months ago. But maybe it would be helpful for everybody for them to take a look and make any comments. Maybe they don't have any but I just want to offer that. That's all.

MICHAEL PALAGE: Okay. So, we're all humming on the last paragraph. If we can go up to the top, or we can go through some of the other changes, with regard to ... I'm just trying to look at ... All right. So, we have two

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other substantive changes that were made. The first was the preamble, if you will, that Sophie had introduced. And then, there are proposed changes in the second paragraph. Again, people will have time on the list to consult with the respective stakeholder groups. We're not foreclosing future discussions. But is there anything in that first paragraph that appears to give the group pause? Okay. Seeing no hands. Melina, you have the floor.

MELINA STROUNGI: Yes. You mean the first highlighted paragraph?

MICHAEL PALAGE: Correct. That's what we're looking at right now, yes.

MELINA STROUNGI: Okay, because I'm reading it now. Sorry, because I was a bit late joining the meeting. I think it is fine. Maybe I would just delete where it says ... Basically, where it says "the current accuracy requirements and enforcements against which the accuracy of registration data is assessed," maybe I would just strike this part out because we're not talking about an assessment, just to be clear that this is just laying down what are the current requirements. Any assessment stage of whether these are enough or whatever will come at a later stage. So, just to be clear that this is just a description of the requirements as they stand. That's my only remark but I'm fine with the rest.

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MICHAEL PALAGE: Thank you, Melina. Sophie, you have the floor.

SOPHIE HEY: Thanks for that, Melina. I hope I can ... I don't know. I'm losing my words a little bit here. If assess isn't the right word then maybe measured might be the preferred word there. The whole point of mentioning this is it comes back to measuring whether it's actually accurate against the standard. And so, what this sentence ... Where it says "registration is assessed are set out below," that's referring back to that specified standard language there.

Now, at the moment, this is what the standards are. Moving forward, as you say, future discussions, it might be determined that that's not appropriate. So, I'm quite happy to change "assess" to something like measurement, or standard, or another word. That's fine by me. But I hope that gives a bit of extra clarity.

MICHAEL PALAGE: Alan, you have the floor.

ALAN GREENBERG: Thank you. I actually like the word assessed because it applies to the ARS, should it be restarted or when it was running. It also applies to an individual complaint that compliance would have to address. So, I think, actually, assessed is a more general term than measurement because measurement implies something which applies to the overall group, and you don't ... Well, I guess you could measure the accuracy of a single domain thing but it has a

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connotation that's different than assessed. So, I actually like assessed.

MICHAEL PALAGE: Okay. So, right now, we have, I think, pretty rough consensus on most of paragraph one. I think we're going to take some time to potentially look at "assessed." Melina, perhaps you, Ryan, and your other GAC colleagues can look at that, see if that word is potentially acceptable. Hopefully, we're close on that. So, I think the next thing that we need to go to is the changes made in the next paragraph here, which, if we could address them ... I'm just trying to figure out, who ...? Marika, I'm having a little difficulty multi-tasking. Who made these proposed changes? Sophie made some, and then I think ... Melina, could you help me here?

MARIKA KONINGS: No. In this paragraph, the changes that are highlighted in blue are ones that Melina made, I think, during this call. And then, there is a comment that Alan put in yesterday. He didn't make a specific suggestion, I believe, for a change. So, maybe Alan can actually speak to what he would like to see as a result of this comment.

MICHAEL PALAGE: Okay. Thank you, Marika, for playing traffic cop there with all of the changes. It's greatly appreciated. So, this is, hopefully, the last paragraph, because I see no other substantive changes, nor has there been any opposition or pushback. My question to you, to the group, is, are there any concerns regarding the proposed language

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made by Melina on behalf of the GAC? Are there any concerns at this time?

Again, this is not speak now or forever hold your peace. The group will have ... We will revisit this again next week, or hopefully inter-sessionally on the list to try to finally nail this down. But it would be really helpful if we can use this current session to raise any initial concerns with regard to these proposed changes. Stephanie, I see your hand up. You have the floor.

STEPHANIE PERRIN:

Thanks very much. Far be it for me to slow us down, but I'm just concerned, as we layer on the ensuing paragraphs, the opening line at the top of the page is, "The Accuracy Scoping Team confirms that they understand the accuracy of registration data to refer to whether registration data is true, correct, and free from error." And then there's an or. And then, after the or, we go on and on about current standards.

Now, we are setting ourselves up for a contradiction because something can have all of these. It can be operable but not be true. In other words, if the address is wrong because somebody moved and forgot to notify their registrar, it's no longer true, it's no longer correct, and it's no longer free from error, but it functions. So, I would like to tone down the accuracy of registration data as a phrase. I realize you went and looked up the definition of accuracy but it had never applied in its pure form to registration data. Thanks.

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MICHAEL PALAGE:

Thanks, Stephanie. And again, one of the reasons I spent time in the library looking at the definition is, if there is ever a dispute ... And what happens when contract ... There is potentially going to be an issue regarding the interpretation of contractual language. What do courts do? They generally look at, how are those contracts? What is the intent of the party? I went to ... Although this has not yet been definitively decided, which law is binding, ICANN Org has taken the position in at least one arbitration proceeding that California law applies to the construction of Registry Agreements. I believe this was in .jobs mediation. Not ARP but the challenge that they brought.

So, if you look at California, they talk about the plain meaning of the word. So, what I think is very important for us as a group to do is, if a word has a certain meaning, we should try to stick with that meaning because that is most likely what a court or an arbitration panel is going to do. And if we disagree with that ordinary meaning then we should at least try to explain why we're deviating from that.

I hope that ... As I said, I'm not trying to complicate it. I'm just trying to, again, take the big picture here of what we're trying to achieve so that, when we get done, and this goes back to the council, and as it goes forth many years into the future, we have at least tried to account for all of the variables sooner as opposed to later. I don't know if that necessarily answers your question but I just wanted to give you the background of why I think it's really important as a chair. Words have meanings and we really need to understand what the meaning of accuracy is.

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STEPHANIE PERRIN: Okay. If I may have a follow-up?

MICHAEL PALAGE: Please.

STEPHANIE PERRIN: In that case, then, I think you should revise that opening paragraph because, as I said, registration data has never met the definition of accuracy. By all means, you may put in a definition that says “accuracy is generally construed to mean ...” but don’t tie it to the accuracy of registration data. For the purposes of ICANN’s disclosure and assessment of registration data, accuracy means operability.

That’s what it has meant. And I am really very worried. In other words, you said speak now or forever hold your peace. I’m speaking now and you’re going to hear it like a broken record. You can’t put a pure definition of accuracy into, for lack of a better word, registration ... Well, let’s call it a registration system. If meeting that term is going to cost money and price us out of business. Because what that means is it’s open season on updates, and checking, and verification.

And we’ve never had that, and I believe that the efforts of the accuracy check that found that ... That basically froze domain names for folks who hadn’t remembered to change their address resulted in very little in terms of actual detection of security issues/security instability.

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It merely inconvenienced a whole pile of people who didn't think of their registrar when they moved from A to B. So I'm concerned here and I think we should modify that first paragraph. Because, basically, what you have set up here is a requirement to improve accuracy to meet the standard of the term, and that is what a court will do, unless you state very clearly that we have never tried to meet a pure definition of accuracy. Thank you.

MICHAEL PALAGE: Okay. Sophie.

SOPHIE HEY: Yeah. Again, I'm just jumping in and I hope that some of the context I'm thinking when drafting this might help calm some of Stephanie's nerves. Again, as I mentioned at the beginning of this, I think what's really key when reading this first sentence and paragraph as a whole is "measured against a specified standard," and that's where we go and look at what's in that RAA. And I think based on the information we've received from Contractual Compliance we understand that's on a rolling basis.

It's basically a point in time. It's not something we can guarantee 100% of the time. I don't think anyone has tried to argue that or necessarily ... I know I personally don't read it as that. But I think that specified standard, as well as the context we have from Contractual Compliance, about checking in, I don't think it's going to that it must be 100% perfect at all times.

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MICHAEL PALAGE: Okay. So, I think what we're ... Here is what I'm going to do. Mindful of time. We're halfway through the call. This document will appear on the list. I now want to ... Unless there are any objections, I would really like it if the group could use the mailing list and try to use the time intersessionally to hopefully wrap this up. And what I am now going to do is I am now going to pivot to the gap analysis, where, hopefully, some of the discussions that we have had here during the first 45 minutes of the call can perhaps inform where we are going. Unless there are no objections, we can close this document out. Stephanie, is that an objection or an old hand?

STEPHANIE PERRIN: As I've said, I'm going to be a broken record on this one because I believe I am correct. I believe you were correct when you said that a judge will read what's in the normal definition and that is the case. The second half of the sentence doesn't make a whole lot of sense. You don't state an absolute and then say, "Or it could be this," unless you explain ... Break it all apart and say, "Normally, accuracy means this. For the purposes of registration data, it is construed as this, whilst striving for perfection," blah, blah, blah.

But if you put those two together then all you're doing is setting up interminable accuracy activity, and some of us don't want to be here fighting about this for the next 20 years. And I also believe very strongly it's not in the interest of the registered name holder to set too high a standard. So, yes, I object. I think that definition should not be there.

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MICHAEL PALAGE: Let me put it this way, Stephanie. Hopefully, you and I are around for 20 years still arguing about this stuff—or doing something more productive.

STEPHANIE PERRIN: I fully intend to be, Michael.

MICHAEL PALAGE: Your grandkids will appreciate that, I'm sure. Alan, you have the floor.

ALAN GREENBERG: Thank you very much. I'll just point out that the words accurate, reliable, and a following word saying it must be done within seven days is part of the RAA. It's not part of the accuracy spec but it's 3.7.7.1 of the RAA and it is there. So, it's part of the contract. That's number one. Number two, what we're writing right now is not for a judge to use to interpret. The contract itself would be interpreted, should that ever come to that. So, I think we're spending far too much time on trying to make this a legal document instead of simply representing what is in the RAA.

All this is trying to do is take the content of the RAA regarding accuracy and represent it for our own use. That's number one. Number two, if we're not going to discuss it here, I will propose some specific language for my concern that I raised with a comment and provided. Thank you.

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MICHAEL PALAGE: Marika, you have the floor.

MARIKA KONINGS: Yeah. Thanks, Michael. Alan already addressed one question I had, because indeed there is a comment there [but no suggestions]. And just to flag to the group so that ... I understand that Stephanie may be proposing some suggested changes to the first paragraph. We have suggested changes in the second one, and language from Alan that is forthcoming, and then additional language from Melina that was added to the one before last paragraph.

I think it is indeed, as Alan said, really important to keep in mind what this represents. This is a description that is to be used in the document that the group will produce to describe what current requirements and enforcement looks like so that, again, for assignment two, we can look at, how can it be measured that these requirements are being met? That is it. It's not representing anything more than that.

So, I am really hoping that the group is able to wrap up conversations on this so we can actually get to the meat of the conversation. Maybe we can, as well, put a firm deadline in place for when input needs to be received, ideally well in advance of the call so that people do have a chance to review changes that are being proposed and we don't need to do it on the call, which I think, as we have seen today, is not the most productive use of everyone's time, unfortunately.

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MICHAEL PALAGE: Real quick before we move over to gap analysis. Beth, sorry, go ahead.

BETH BACON: Oh, sorry. So, I have one little suggestion. Thank you, Marika. I think that all sounded excellent. One little suggestion that maybe we can ... We don't have to discuss now but then we can bring it to ... When we do bring this to the list. Stephanie, I think your comments are very valid.

But I think we can maybe get around the concern if we put a little disclaimer on this document just saying this is simply to demonstrate a shared understanding of our discussions in this group and to provide a basis for further discussion and does not represent a legal definition, or something like that, to make sure that the context of this is there so that some folks don't pick it up and try and make it something it's not.

I think this is a foundation, a shared understanding foundation for our discussion. We happen to be calling it the definition but we can call it something else. It's all semantics. But yeah I think, Stephanie, again, your comments are valid and correct if there is a certain context for this document. So, I just wanted to float that out there. We can argue about it on the list and move along. Thanks.

MICHAEL PALAGE: Marika, before we transition over to the gap analysis, last time I checked, we had ten responses to the survey. Has that increased, or where are we at, survey-wise?

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MARIKA KONINGS: Just pulling it up. I think we're still at the same number of responses and, as you can see, it's a pretty 50-50 divide based on what has been received so far.

MICHAEL PALAGE: Thank you. Marika, can you throw up the gap analysis? My recollection, correct me if I'm wrong, I believe we had ... I think last week we had completed most of it. Again, I did miss a portion of last week's meeting. I think we got through most of the analysis, although there were some questions that were posed to both the IPC as well as the BC. Is that correct?

MARIKA KONINGS: So, we did go through, last week, the changes or the updates that were made as a result of the conversation that we had during our ICANN73 session. We did ask groups to review this and provide input but I don't think we got any ... I don't know if that means that people are happy with this and are ready to start working on the next steps that have been identified. There was still one outstanding question for the IPC. I don't believe a response has been provided.

I can basically restate the proposal eight here is taken from the IPC's input to the gap analysis, the original document, but it seems to combine a number of different things, such as monitoring and reporting, but it also refers to a third-party study, as well as ARS. So, we are trying to better understand whether this is indeed a standalone proposal or if this is already captured by the other proposals in here and this one can or should be removed.

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So, that's a homework item for the IPC to look at this and try to determine, is this indeed a separate proposal from what has been suggested in the other ones? Or if not, can this be removed? Then, on the last item, Susan had actually responded to our question during the last meeting and she included the references to the specific review team recommendations that the BC believes should be pursued.

And what we did is we kind of checked what the current status is of those recommendations because, of course, those are recommendations that were made by the WHOIS Review Team, or the RDS WHOIS Review Team 2, to the ICANN Board of the two recommendations that Susan listed. Those remain in pending status. There are dependencies that are being monitored by ICANN Org as ePDP Phase 2 related work continues.

So, that relates to Recommendation 4.2 and 5.1. In relation to LE1, that is a recommendation that is included in the prioritization pilot that is ongoing. So some work has already gone into addressing the intent of the recommendation in the form of the differentiation of legal versus natural study, as well as two surveys and outreach that was done in the context of the SSAD ODA.

And then, there was a last recommendation that was mentioned, and that is actually one that was referred to the GNSO Council by the ICANN Board. There were two recommendations that were referred to the council, one of which I think the council basically already either considered addressed or not needing to be addressed. But for this one specifically, the council did indicate that a further consideration would need to be given to this recommendation.

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And of course, it specifically touches upon accuracy. So, this might be an item that the group can have a closer look at and see if that is indeed something of a gap that exists and that may need to be further considered. Obviously, this is not something specifically that relates to what we're currently looking at, which is the proposals for gathering data to assess whether or not the existing requirements are met.

So, at least from my perspective it seems that this does need to be considered. It may not fit here within the context of the proposals that we're looking at here but, of course, if I have misunderstood what the BC is suggesting here, I am happy to stand corrected. So, that was a homework assignment that we had. We did ask groups to weigh in whether there was anything further that needs to be added, changed, considered, but I believe we didn't get any further input at this stage. So, I'm not sure where that exactly leaves us, if we can start working on next steps or whether groups haven't had time to dive into this.

MICHAEL PALAGE:

Okay. Thank you, Marika and Susan. My question to you is, first, thank you for responding to the initial request to provide the specificity, which you have. Did the responses from Marika help? And then, I guess the question to, perhaps, the BC or to the group as a whole. It seems like a lot of the things that you have requested are in other states of play and have not yet been completed.

So, maybe if you could initially comment on what you perhaps think the best path forward is in light of this? And maybe, if there are any other comments from the group as a whole, do you view this as a

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gating function or an impediment to us moving forward? How would you ...? What do you think is the best way forward in light of Marika's feedback?

SUSAN KAWAGUCHI:

The BC just wanted to make sure that these were noted. Marika, thank you very much for the update on this current status. The core reason for including these is that we felt that this would contribute to the accuracy of the data or the determination of the status of inaccuracy—for example, the one, CC.1. When a registration is suspended for inaccurate data there's no indication to why that was suspended when you could have—prior to GDPR. As you know, the work of the review team was prior to the implementation of GDPR or it was implemented during the time period we were working. So you would see many registrations that were suspended but had obviously inaccurate information in the record. And we felt it was important and critical to indicate that.

Now if this had been implemented and we had those statuses, then we would have a better idea of how many domains were suspended. This all goes back to understanding the quality of the registrant data and what the problem is that exists. We keep getting these calls for, "Show us some proof." Unfortunately, our review team focused on that but none of these have been implemented. And we're in 2022. The report went out in 2018. So it's more of a statement that, "Hey. We did a lot of this work so we wouldn't end up here," but it hasn't been implemented.

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MICHAEL PALAGE: Thank you, Susan. I'm just trying to also keep track of the chat as well. I guess my question to the group is do we believe that there are any other potential gap additions? Now that we are close to, hopefully, signing off on the definition, that will then allow the rest of these dominoes to being to fall into place. Do I see any hands? Questions, comments, concerns regarding the current gap analysis?

Okay. Marika, I guess let's go back to the agenda real quick. That went a lot quicker than I anticipated. I guess what happens here is as far as next steps, Marika, maybe if you could share, from ICANN Org's perspective, assuming we're able to nail down this definition, hopefully within the next week, we would then be able to sit there and hopefully finalize this gap analysis. What do you see as the output of the proposals?

I guess not to you but really to the group as a whole, does the group see including all of the proposals as part of the gap analysis? Do you see a ranking? What do you see the potential work output of this document and how we give this back to Council to give them a status on where we're at? Some of these decisions, as was just discussed based upon the input from the BC, there are some things that we can't move forward with. So is our work, as a group, put on group until that other work is concluded? Is there some things that we can perhaps move forward with?

What I would like to hear is perhaps before ... Well, let's start with Marika. ICANN Org, if you can share what you view—how this document completes assignment number two. Then we'll open up the floor to the members to see whether there is agreement or perhaps other options available.

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MARIKA KONINGS:

Thanks, Michael. I think we're maybe too soon to call this completing assignment two, because at least from our perspective, this is really where the work lies. The group has now identified, at a very high level, potential avenues that could be explored to gather further data. But on many of these, there is more information needed to really understand whether or not that is a viable path.

I don't think passing it back to the Council, at this stage, will be very helpful because the Council at this stage will be very helpful because the Council will basically, I think, turn around and say, "You tell us. What of this can be done? What is needed? Who needs to be involved?" Of course, there's also the parallel conversation that's ongoing in relation to ARS and what can be done there. So that is a potential dependency that may require some time to resolve, depending on the timeline on that.

But as we discussed last time as well, proposals a, b, and d, and e as well are all proposals that do not require access to personal information. So those are potentially avenues that could be further explored without having the response to that question on whether or not ICANN has a legitimate purpose to access that information. So as said, for each of these, we identified what we would see as the immediate next steps to get a better on whether or not the path is viable and to, more specifically as well, outline how it would work.

I think once you've actually done that and better understand what it takes, what's required, what resources are involved, what the potential timeline is, I think that is something, then, that you can present back to Council, saying, "This is where we're at." You may

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even want to include a ranking once you've understood what is within the realm of possibilities to indicate what the group thinks should be done first, or second, or maybe in parallel.

Then, of course, once that work is underway, the group may need to check. Is this a moment to pause until that data is gathered and comes back so you can move to your phase three of work? Or are there other things that the group can work on in the meantime—for example, rolling out a registrar survey or reviewing compliance complaints. That is, as well, work that someone will need to undertake. So it may also be things where the group can be directly involved. So I hope that's helpful.

MICHAEL PALAGE:

Yes. I guess I wouldn't be ... Let's hear what the rest of the group has to say. Again, do not want to be overly optimistic but Marc, you have the floor.

MARC ANDERSON:

Thanks, Michael. I guess I don't have a lot to say on top of what Marika said. I was going to say something similar. Like usual, I went back to the charge to the scoping team and read that. It says, "The scoping team is expected to provide recommendations for how accuracy levels could be determined and measured, including but not limited to whether WHOIS ARS needs a revamp to make it fit for purpose or whether there are other ways in which accuracy levels can and should be measured."

We haven't done that. We have ideas at this point. And as Marika said, they need to be fleshed out a little further. Some of them may

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be viable. Some of them may not be viable. Some of them have dependencies on other work. So I do think we need to flesh them out a little bit further. And I think we need to provide a recommendation to Council on what we think should be done to measure accuracy. My two cents. But generally, I think Marika covered it very well.

MICHAEL PALAGE: Beth, you had your hand up. Do you just totally agree with everything Marc Anderson just said and that's why you put your hand down?

BETH BACON: When does that not happen?

MICHAEL PALAGE: Don't want to be presumptuous but there we go. Okay. Thank you.

BETH BACON: I also agree with Marika. It's my understanding that ... I think that when you said, "Are we finished with this?" I think, yes. I think we're finished in that this is a good document for us to now have a discussion about what we think might help. What do we think those fixes might be? And things for the GNSO Council to then take on board and say, "Okay. This has been discussed and there is some general agreement," that this might be something to consider as they go into doing an initial report or a scoping document of some kind.

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I think if we just give them this, they're going to be like, "Okay," and they're just going to come right back to us and we're going to do it again. So I think, yes. Let's do some more discussion on this. And I think there's a small enough number of topics, and we've done enough good work as a team, that we could go through these, and talk about, and narrow down where it says, "possible next steps," and narrow down pretty easily, "This requires more information. Note that. This is something we don't think is feasible, technically," or, "This is something that we think would be a good idea."

I think that that's something that's pretty logistically feasible for this group because we're a good size and there's not an absolute boatload of these proposals to go through.

MICHAEL PALAGE:

On that note there, as far as proposals made, Marika, would you propose locking down the number of proposals at a certain point in time or do you view, as we're analysing and doing the deep dive, is there the potential for the group to add more proposals as we're going forward? Just from a processing standpoint, I want to know how do you view that? Do you think that we should have a drop-dead date on when we're adding additional proposals or we should have some flexibility there if we find, as part of our deep dive, there may be another proposal to consider?

MARIKA KONINGS:

Yeah. I don't think it's ever to completely close a door, although having said that, the group has had an opportunity to look at this for, already, a couple of weeks. I wouldn't be surprised if something

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completely new comes out of the blue. Of course, we do have the one item of the IPC that may result in a modified or new kind of proposal. Maybe working our way through these will result in new ideas and suggestions. So I would never exclude that nothing new can be proposed or added. But it does seem that with this list, we do already have ... I think that it covers the horizon of options here.

What I would maybe like to suggest in moving this forward ... As said, I think the first couple of items—a, b, d, and e—are something and don't seem to have the dependency of the conversation that's going on in parallel on the scenarios and the ARS. Maybe the group starts deep-diving on those. What we maybe can do is set up a separate document for each of those proposals, highlight the possible next steps, and really try to encourage people to come prepared for the next meeting. We can start, maybe, with proposal a that's here up on the screen and think through these different steps. There are a number of items here they're saying the group should consider. Okay. So what does that mean?

For example, an incentive for registrars to participate in the survey. What could that look like? What should that look like? Should that be something that is offered? But again, it's possible to flesh out some of these proposals in a more detailed—what it would take, what it is expected to include, who is expected to do it. Of course, this is also one ... Someone will need to set up the survey. Someone will need to send it out. Someone will need to collect the responses. I think it's also important to think through how that would work.

Of course, specifically on this one, hopefully the registrar colleagues on this call can already, maybe, check as well with their

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respective group what the sense is there. How could something like this work? I believe they had another survey in the past. What worked well? What didn't work well?

So again, we can really dive into the details, maybe during the next meeting, for this specific proposal and then work our way through, initially, those that do not have the dependency on access to personal information. Then, once there is a response or more clarity around what that looks like, also focus on the other proposals that are in here. That would at least be my suggestion.

MICHAEL PALAGE:

Berry, I see you have your hand raised. And it's going to have something to do with the timing and the fact that we're behind schedule. But you have the floor.

BERRY COBB:

Thank you, Michael. One more time, you're wrong. It's not about the timing. But Marika, if you can scroll back down to the bottom of the page—CC1 in particular. In terms of the next call or two calls from now, I would encourage this group to take a look specifically at this review team recommendation that was passed from the Board to the GNSO Council in reaction to comments made about these not being implemented. This specific one had direct implications to an existing consensus policy, thus why the Board sent it to the GNSO Council.

So it would be very helpful for this group to review this in detail and determine, a, the efficacy of the suggested recommendation. And

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would that, in fact, require additional policy development to confirm or change that policy so that it can be implemented?

I'm specifically drawing attention to this one from a selfish perspective because it has been an item on our program management tool that needed to be resolved. Of course, the pipeline for when this came to the GNSO Council was already crowded, thus why a review of the specific policy that touches this hasn't been initiated yet. But I think what's most important here is that this group can convey some sort of specific message back to the Council so that a decision, if warranted, on any additional work can be made in this regard. Thank you.

MICHAEL PALAGE: Thank you, Berry. Go ahead, Alan. You have the floor.

ALAN GREENBERG: Thank you. Just a little bit of insight. I chaired the RDS Review Team. You'll note that this recommendation starts off with, "ICANN Board should initiate action." There are two ways to effect this. One is GNSO policy work. The other is the next time we do updates to the RAA, it could be a negotiated decision. This particular recommendation was not thought to be controversial. It would be a useful addition. And the hope was there would be an RAA update sometime soon and it can simply go in without a lot of agony and controversy. Just to note that was an option that was considered by the Review Team. Thank you.

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MICHAEL PALAGE: Thank you. Marc Anderson, not to put you on the spot but you're probably the only person who has read the charter more times than myself. Given the comments that Berry just made about that recommendation, do you see anything? And again, not putting you on the spot. But do you have any initial concerns about us as a group potentially opining and giving guidance on this in light of the comments that Berry had just made?

MARC ANDERSON: Michael, my initial reaction is that there's probably a place for it under item four, impacts and improvements. So I think there's probably room to consider that as part of our scope. But we're not a policymaking body. So I think Berry's overall point is that there hasn't been an easy way to address this as part of the GNSO Council's currently very busy plate. So I think probably the extent to which we can address this is to recommend additional action. But these are my quick-hit thoughts and not something I've fully considered.

MICHAEL PALAGE: Yeah. Put it this way, Marc. I appreciate that and did not mean to put you on the spot. But I know that you are very meticulous on the charter and I would say my initial reaction would align with your comments as well. But to Berry's point, it would be helpful if we could perhaps at least acknowledge this or at least get this on the radar so that we could bring closure to this from other areas.

With that, unless there are any other questions, comments, or suggestion, I will give 10 minutes back to everyone in their day.

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Again, just a quick reminder. Please do use the list and the time intersessionally to move these discussions forward, particularly on the definition so we can have closure on that and begin moving forward.

Just mindful of time. Terri, I believe in Europe that they are going ... We are going to stay at the current UTC time. I know there was a change with regard to those in North America. I believe the time change occurs this weekend for Europe. I just want to remind everybody about that. Am I correct in that, Terri?

TERRI AGNEW:

You are correct. On Sunday the 27<sup>th</sup>. Just as a quicker reminder, in all meeting invites, towards the middle, there's a "check your time zone." So if ever in doubt, please select that link and it will pop to the date of the next meeting. So it should be pretty clear what time the meeting is in your time zone.

MICHAEL PALAGE:

Thank you and we can stop the recording.

TERRI AGNEW:

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

**[END OF TRANSCRIPTION]**