
DEVAN REED:

Good morning, good afternoon, and good evening. For the record, this is Devan Reed. Welcome to the IDNs EPDP Call taking place on Thursday, 5 September, 2024 at 12:00 UTC. We do have apologies from Maxim Alzoba. All members and participants will be promoted to panelists. Observers will remain as an attendee and will have access to view chat only. Statements of interest must be kept up to date. If anyone has any updates to share, please raise your hand or speak up now. If you need assistance updating your statements of interest, please email the GNSO Secretariat. All documentation and information can be found on the IDNs EPDP wiki space.

Recordings will be posted shortly after the end of the call. Please remember to state your name before speaking for the transcript. Please note all chat sessions are being archived. As a reminder, participation in ICANN including this session is governed by the ICANN Expected Standards of Behavior and the ICANN Anti-Harassment Policy. Thank you and over to our chair, Donna Austin, please begin.

DONNA AUSTIN:

Thanks very much, Devan, and welcome everybody to today's call. We are getting very close to the end here, folks, of the substantive discussion so that we can have agreement on our recommendations and get started on the drafting of the final report and working towards our consensus designations. So, we may only have a few of these meetings left so we will see where we get to. We're at 1.17, so maybe we've only got another three of these left at a maximum. I'm not sure we're going to have many more than that.

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 righty. So, during the last week, Saewon has been pretty busy sharing draft text with folks over their email. Some of it has only been in the last couple of days, like grandfathering that we're about to work through 14 and 15, Recommendation 14, IG15 have been with folks a bit longer. So, apologies that the grandfathering text has only got to folks in the last couple of days, but hopefully we can reach some agreement on moving forward with the replacement language and hopefully in a way that's comfortable for everybody.

And then discussion at 14 and 15, hopefully we can reach agreement on that as well. So, I know there's still some concerns by GAC and ALAC, but hopefully we can work through those and get to a happy place on it. All righty, so with that, I'll hand it over to you, Saewon, and if you can take us through the changes that we've made to the exec summary, the glossary and also the text of recommendations to address the concerns that ICANN have all grazed about using the term grandfathering. So over to you, Saewon.

SAEWON LEE:

Thank you, Donna. This is Saewon Lee from staff for the record. Thank you, Anil. So, we're on agenda item number three on grandfathering or grandfathered, and I just want to share with you the updated documents that have been circulated, again, less than 24 hours, so again, sorry. But the first one, as I shared, is the executive summary. The second is the glossary. And then the last one that I'm sharing here is the Section 4 that we've been working on together.

So again, the updates have been circulated not so long ago, and some of you may not have even been able to review any documents yet, but they have been updated based on the ICANN org suggested terms, which have already been discussed. And the suggested terms were, as you all remember, they're kind of summarized into exempted, excluded, exemption, and exemption period, based on the context.

And just to briefly point them out to you, as I already have through the email, first of all, so executive summary-wise, in Page 3, we provided an overview of the change from grandfathered to exempted. And this is the explanation or the description of the process that went through coming to exempted, or the other variations of the term. And then in the glossary pages, sorry that I'm scrolling too fast, but from Page 5 to 7, we have the entry exempted instead of grandfathered. So now grandfathered has been deleted and replaced by exempted.

And in the notes here, like I'm not going to go through the actual entry itself, because it is similar to grandfathered that was entered before, other than adding here how it's been changed. In the notes or in the comments or sidebar comments, I think Donna did mention-- Please chime in, Donna, if there's any changes, but exempted here is described in the context of variant domain name management. And this was kind of in continuation of how it was done for grandfathered. And Donna had asked if this should be changed to more in the context of this EPDP.

And just to reflect the suggestion, I have added four EPDP IDNs here. Before I get to Hadia's comment. So, while keeping the context of variant domain name management, just because the second column here is more of a general note or general meaning of exempted. And in

the notes here, we kind of wanted to get into more details about how it's used in the context of variant domain name management. I kind of left it as it is. And especially because we wanted to or just wanted to describe exempted as how it's described specifically to this case in throughout this report.

And because in this later paragraph, we do mention how exempted is used instead of grandfathered in this report. That's how it's kind of left as is, if Donna is okay with that. And if anyone else have suggestions related to this. And to answer Hadia's question, we don't actually have excluded within the glossary entry. But I will get to this later where we have mentioned it in the working document of Section 4. But please do speak up if any of you think glossary-wise, there should be an entry or, again, any suggestions, but I will get to how excluded is entered within Section 4 of the working documents. And before I move on to Section 4, if Donna is okay with how it is. Satish?

SATISH BABU:

Thanks, Saewon. Satish for the record. So, this, of course, the definition here, which is a provision, which an immediate previous rule, etc., sounds fine to me. But there is one nuance of the word grandfathering that is probably missed out here. And I think Maxim in the last call mentioned it. That is the point that exemption is not a desirable condition. It cannot be indefinite or permanent. Now, that sense seems to be missing here, because it just says continues to apply, which can be as indefinitely. But the grandfathering word actually has a nuance that it says this is a temporary kind of a condition, which we hopefully it will go away after a while. Thanks.

SAEWON LEE: So, your suggestion is in the meaning itself, or at least in the notes, we should add a condition where it doesn't continue to apply?

SATISH BABU: Yeah, in the sense, perhaps in the explanation, we can mention that this is not an indefinite continuation of the exemption, but that it will be resolved by some process in a reasonable period of time. Thanks.

SAEWON LEE: Does everyone agree to this? And again, I think we might have to decide where to add this, but thank you for the suggestion, Satish.

DONNA AUSTIN: Yeah, thanks. Thanks, Devan. Dennis.

DENNIS TAN: Thank you, Donna. So, Dennis here. I'm not a lawyer, but I'm just googling the definition of exempt. And it just says free from obligation or liability imposed on others. Doesn't have that nuance as Satish was suggesting to include as a definition. I mean, I agree with Satish, right? The exemption is supposed to be temporary until a time where all the domain names, the variant domain names become under the single entity rule. But I don't think it's wise to force a definition into something that does not have it.

I mean, I would agree that you put that verbiage somewhere, right? That the desired goal is to move all exempted variant domain names to the new ruling, if you will, but let's not try to redefine words that are already they have an own definition. That's my two cents here. Thank you.

DONNA AUSTIN:

And thanks, Dennis. So, one of the challenges I'm sure you all appreciate is that exempted isn't a-- What's the word I'm trying to say? Exempted doesn't mean grandfathered and vice versa, but what we-- I guess when we had this conversation, after we'd received the comments from ICANN org, we had a number of possibilities that we discussed about, well, what term or phrase could we use to replace grandfathered.

And then when ICANN org came back with exempted, which was one of those terms that we thought might work, I think we acknowledged that it wasn't perfect, but it was probably closest to what we were trying to say with the term grandfathered. So, one of the challenges for us here is exempted and the way that we've used it isn't 100% true to probably what is a dictionary term, but we're trying to make it applicable for what we're trying for, the replacement of grandfathered or variation to that name. So, I understand Satish's comment and I understand what Maxim was trying to say last week. I also appreciate Dennis's comment that let's not overdo it here and make the term something that it's not.

So, we're trying to thread a little bit of a needle here with a nuance. And that's why this is in the context of the variant domain management

for this PDP, exempted means the following. So, I think to the extent that we could have something that captures what Satish was recalling from Maxim's intervention last week, we can try to do that within the meaning, but we may find that it fits better within the context discussion. And I noticed there's some other chat that I haven't had a chance to review, but, Hadia, do you want to go ahead and I'll have a look at the chat while you're talking?

HADIA ELMINIAWI:

Thank you so much. This is Hadia for the record. So maybe we can put a note saying that the ultimate objective is for all domains to adhere to the same entity rule. So, then rather than like putting a definition to exempt it that does not exist, just clarifying that this is not a situation that we would like to see forever. Thank you.

DONNA AUSTIN:

Thanks Hadia. I think we can come up with something that would address what Satish and Hadia have raised. And I actually like what Nigel has in chat is that he thinks this is a note like saying for this purpose fruit means pears, not a definition. And I think that's exactly what we're trying to do here. We're not replacing apples with apples where it's almost, but it's not quite. So, we take the point, and I think we can find something that would be hopefully agreeable to the rest of the group. And I appreciate that this language hasn't been out with the group for all that long.

SAEWON LEE:

I don't know if this helps in the discussion, but in the later part of the notes, we do say this also implies that the exemption period will end when one registrant and one sponsoring registrar remain for the variant domain sets, which would effectively allow for further allocation. I've just put this in the chat for you. Again, I don't know if this addition in the notes help, if at all. And again, this exemption period is also one of the terms that's suggested by ICANN org. That's also provided with some description in Section 4.

Again, I know, like Donna said, this language hasn't been or this update hasn't been circulated long enough for everyone's review, but if this is suitable or not, if you can also provide comments or feedback to this, that would also be greatly appreciated. But again, we understand the points to either update or not, and I think we'll see how it can be done unless the suggested language is okay for everyone. Thank you, Satish.

Okay. So, then moving on. So, in Section 4. So, other than the language itself that I just asked the team to review, again, if you haven't been able to, there is one point to resolve with the team, and hopefully we can do it today. So currently, as I also pointed out through the email, in Section 4, exempted is also described in Page 2 of Section 4 under the underlying principles. And this exempted is also introduced in pages 5 and, let me get there.

So here, exempted is also fully described or covered under the rationale of Recommendation 3. And this is also where the term is first introduced through the outputs and obviously described in detail. And here, it also explains how, again, what we just discussed, the actual meaning of the term and what it implies related to when it ends and

when it's effective until. So, that's kind of how currently it's been inputted. But just through our discussion last week, as well as to kind of experiment with what would work in the document, we also have the description in all the footnotes.

So, for example, exempted, starting from footnote nine, to kind of provide an additional note to the word exempted, we've added Michael's suggested comment, where we are referring to this term as exempted in the course of this document. And then throughout the whole document, we've kind of marked the footnotes under each and every case throughout the report. And not just for exempted, but excluded and exemption and exemption period.

So currently, it's under each and every case. And so not only is it introduced in the beginning, the executive summary, the glossary, and the beginning of Section 4, it's under each and every case, as you can see here. And for excluded, we've added an explanation for exemption period, we've added an explanation, and for exemption as well. I mean, it's all kind of in the variation of exempted. And obviously, we've used the same description as what's in the glossary, as well as the description under Recommendation 3. But we've kind of marked it all differently.

But the question that we would like to ask the team is, if the team agrees that the footnotes per each case is not necessary, in addition to what I just mentioned about it being described in the executive summary, Section 3 and Section 4, beginning, then maybe a suggestion is to take the footnotes out completely and just leaving it as an overview in the places that I've just mentioned, or if the team finds the footnotes necessary, at least, then maybe to suggest only leaving it in

the first usage of the term, and not all throughout the document. So, for example, just only adding in foot, what I just mentioned, footnote 9, footnote 18, and footnote 26, and then rest of them just deleting it for the cleanliness of the document so that it looks better.

So, that's kind of the question that I would like to ask the team. And currently, Nitin is agreeing with, I think, deleting the footnotes. Yes, so Satish also thinks it becomes too repetitive. So, I guess what I'm asking is, the two options, is it that we want the footnotes all gone and just leaving it in the overview or the beginning parts that I've just mentioned? Or is it that we want it just in the first usage of the terms in Section 4, and deleting the rest? And again, if it's something that cannot be decided today, you can provide the feedback by next week, but we would like to have the team's agreement on this.

DONNA AUSTIN:

Thanks, Saewon. And I appreciate the support for getting rid of the footnotes. But given this has only been out with the team for, I don't know, maybe 48 hours at best, we can leave this as it is in the document. And if folks want to provide comments on the document, that would be really helpful. But I did think that when I went through what Saewon has in front of us now, it did seem that the footnotes were repetitive. And because of the way that it was, the explanation was set up earlier in the recommendation text, it did seem that it was adequately covered and should hopefully flow through.

So, I am also of the view that I think the footnotes, we probably can remove one of those. But what I'd like to do is just appreciate the

support now, but we will leave it for another week for folks to review because there is-- We've made three changes here to address the grandfathering thing, and one is in the executive summary, the other is the glossary, and the other is throughout the text. So hopefully when you put those three things together, what we mean by exempted as the term that replaces grandfathered does make sense to folks.

SAEWON LEE:

Okay. Thank you, Donna. And a lot of the suggestions are to get rid of the footnotes, but as Donna mentioned, we'll leave it. I mean, it's easy to delete them. They're all entered anyways. So, we'll just leave it out for another week. And if the team can just provide suggestions in the sidebar comment. You can just say, please delete all the footnotes, or please leave this and this, but delete the rest. But if you can just provide your comments, that would be great. But the tendency seems to be that it's too repetitive, and it's not necessary. And we will also take that into consideration.

Yes, they do. So, yes, our preference is, Hadia, that we do want to get rid of them, but we just wanted to see what the team thought first. So again, we'll just leave this out for another week, just because this hasn't been shared with the team for too long. But please do keep that in mind when reviewing the documents. Then I think, Donna, agenda Item 3 for grandfathered is all introduced or the updates to it.

DONNA AUSTIN:

Did you run through the executive summary, Saewon?

SAEWON LEE: Yes. Well, I just gave a brief overview.

DONNA AUSTIN: Okay. I must have been letting the dog out at that point. Sorry.

SAEWON LEE: So, I just introduced that we have a paragraph here in the executive summary, where we have given an overview of how this process has been taken.

DONNA AUSTIN: Okay. All right. So, I guess the ask of the team here is it looks like we're in pretty good shape for this. We, the leadership team, will have another look at the glossary to see if we think that the concern raised by Maxim and again raised by Satish today, whether we've adequately covered that. And then what I would like the team to do is to review the document and make sure that you're comfortable with the way that it now reads.

Because I do appreciate that grandfathered is a is a well-worn term within ICANN. And it's a bit of a shame that we became the ones that had to move away from that. But I think we've done a pretty good job. So, I want to make sure that everybody else is on board with that as well. So, if you have any comments, please make them directly into the document, and we can pick it up from there. Okay, so I think we're good, Saewon.

SAEWON LEE:

Great. Okay. So, then we'll go on to the next item, which is, again, the contentious item that we're trying to conclude. So, it's related to the outputs 14 and 15 and 17 as one that's subjective to this, but to share with you. First of all, so this is the email that was circulated, just to kind of see 14 and 15 at one glance, and the suggested language. So obviously, we do hope to conclude today, but we do understand that some groups may not be able to confirm until the next team call.

Just to get the discussions going, we haven't received any feedback in the document itself, but obviously, as most of you probably saw, there have been a few questions seeking clarity. The answers have been provided through email, but just to kind of recap on the questions so that we can maybe confirm or discuss further on the items. So, the questions were mostly about, again, the clarifications on the newly suggested language. And it was about so who is to be involved and how the information is provided. And I think the last question was about the mechanism where the end users could have access to this non-private information regarding the variant sets.

So just to kind of provide the summary on it again, though it was already provided through the email. So, the Recommendation 14 here, the new language is about the contracted parties, so the registries and registrars, trying to find a technically feasible solution to be able to communicate with each other regarding the variant domain names. And the way that this language was crafted was envisioning a way where a registrar would retrieve the requested information.

And the Implementation Guidance 15, the newly drafted language is trying to resolve the end users needs, which was the later part of the question that came in. And this is in being able to determine what the allocated variant domain names are. But because we had these data privacy concerns, the guidance was leaving this at the registrar's discretion to accept and consider whether the disclosure of such information should be granted through a balancing test. So, that's kind of how this language is drafted, just to add clarity.

DONNA AUSTIN: Saewon, can you make the text any larger?

SAEWON LEE: Is it too small? Is it better?

DONNA AUSTIN: Satisfy, is that any better?

SAEWON LEE: And I can also obviously share the language again in the chat for you. So, this is for 14 and this is for 15. And again, while the team tries to absorb the language again, staff tried to kind of prepare this in a simple diagram to help the team understand the flow of the language if possible. Again, I don't know if this is making it more complicated, but we just kind of wanted to see if this would help.

So, if you can all see this. So basically, if you can see here, in Recommendation 14, you see the contracted parties working together to find a technically feasible solution to communicate with each other. And this is obviously regarding-- Dennis, do you have a question?

DENNIS TAN:

No. Sorry, Saewon. I can wait until you finish the explanation.

SAEWON LEE:

Okay, I'll be quick. So basically, it's about finding a solution to communicate with each other regarding the allocated variant domain names for a given domain name information. And so, this is kind of how we picture all the languages drafted for Recommendation 14. And through Implementation Guidance 15, this is trying to show how the end users could access the information.

So first, a requester would submit a request for data to the registrar. And then a balancing test is run for the registrar to decide whether the registration data should be disclosed, following their own application of the appropriate balancing test. And then once it's decided that the data could be disclosed, the registrars would request the information from the registry, but in a manner where it's just a retrieval process through the solution presented here. And then finally, the data is provided to the requester.

So, that's kind of how the language is flown. And before I go into the questions or open up the floor, because I do see a queue, I do want to

see if Steve or Donna wants to add anything. If not, or while we wait, I will open up the floor. Dennis and then Satish.

DENNIS TAN:

Thank you, Saewon. Dennis for the record. So, this is very useful. So, thank you. I appreciate the visual explanation here. So, I want to focus on Recommendation 14. I appreciate and understand the use case explained in the rationale for change. But when reading the recommendation itself, right, preliminary Recommendation 14, is not tidying up the objective.

It says, talks about the two parties that need to work together to provide information, but it does not say for what. And I think the preliminary recommendation can gather some of the language that is used in the rationale to tighten up that use case, which is exchange information between these two parties in order to register and manage variant domain names.

DONNA AUSTIN:

Thank you. Satish?

SAEWON LEE:

Hang on. Sorry, Satish. Before we move from Dennis. Dennis, do you have suggested language?

DENNIS TAN:

I believe I do. And I can read it to you because I was working on that yesterday. But it was basically picking words from the rationale. So, I don't know if you want to switch on the preliminary recommendation language so that we can see the changes. Let me see if I can. Maybe if I paste this to the chat box, I'm not sure if it's going to capture the-- Let me see. I need to strike through some of this because the chat box doesn't have rich text capabilities here. So let me try to see how I can change this so that it's too determined.

Okay. Hopefully this makes sense to you. And just let me put meaning. So, I put on the chat box the "revised language". So, what you see in bracket, you follow the language and you will come along to a bracket section. That's a new language. And then the sentence that is between aesthetics or stars, whatever you want to call it, that would be removed. If that makes sense. Again, sorry. The chat box doesn't have the rich text feature, so I cannot remove that. So again, it's to clarify what is the use case of Recommendation 14, which is the exchange information between registry and registrar.

So, that information is not going outside those two parties. It's between those two parties. Registrar needs information from the registry and registry will provide information to the registrar so they can register domain names in the TLD registry and manage domain names per registrant's instructions or what have you. So, that's kind of the goal here to really clarify what the intended objective of this work that registries and registrar will do, if that makes sense. Hopefully that's helpful.

DONNA AUSTIN: Thanks, Dennis. So, before we talk about Dennis's language, I'll go to Satish and see what your comment is. So please, Satish.

SATISH BABU: Thanks very much, Donna. First of all, like Dennis, I deeply appreciate the time that staff have taken, time and effort to make a visual version of the challenge. And I think it is very helpful. Second is that in light of discussions today, I'm assuming that we're going to make some changes in the language. If the language is stable, then we would like to take it back to ALAC to get their opinion on our inputs on this particular point.

But my third point is there are two points where this process can fail. The first is in Documentation 14, and that is if for whatever reason, technical or financial, the registries and registrars are unable to come up with a process. So, some remediation of this situation would be useful in the implementation guidance or somewhere in the rationale so that what is the chance that such a technically feasible solution does not exist for whatever reason.

The second failure point is a backing test, which is somewhat opaque at this point. We don't know what is inside that box, how the testing happens, and what if that fails, and what are the conditions when it can fail, so that the person who's asking the question can prepare for it. So, these two points are kind of concerned. I mean, we're still not really concerned because we don't know what is the way to resolve those two questions. Thank you.

DONNA AUSTIN: Thanks, Satish. Hadia?

HADIA ELMINIAWI: Thank you so much, Dennis, for your suggested language. One main difference I do see between the new draft and the current language, that the current language actually includes ICANN org. So, it does say that ICANN org should work with relevant stakeholders to develop and enable. While the new draft excludes ICANN org from the process and speaks only to communication between the registry operators and registrars. And I think maybe keeping ICANN org involved would be beneficial to the whole process. Thank you.

SAEWON LEE: Thanks, Hadia. Sorry, Donna.

DONNA AUSTIN: I know that we discussed this last week. So, we discussed why we came up with the new language and taking ICANN org out. Steve, I wonder if you could speak to that point specifically, the one that Hadia has just raised. And, Anil, we'll go to you.

ANIL KUMAR JAIN: Thank you, Donna. This is regarding the ICANN org. So, the ICANN org is a new language. And the new language which Dennis has suggested. Now here, both the registrar and registry are contracted party of ICANN. My suggestion is that, of course, we are living between them to devise the communication methodology to share this important information.

But since they are contracted party, my suggestion is that whatever channel of communication is devised, that should be intimated to ICANN org so that in case of future legal issues, in case it comes out in future, ICANN org is well aware that what was decided between them. Thank you.

STEVE CHAN: Donna, if you're speaking, we can't hear you.

DONNA AUSTIN: Thanks, Steve. Thanks, Anil. Hadia, to your point, Saewon has put something in chat that currently we're still waiting for GTS to provide an update on what ICANN org's role would be in this, especially as it relates to contracted party collaboration and finding a technical solution. So, we don't have that information yet. So, I guess we need to-- Satish, I know you're asking for stable language to go back and speak with ALAC folks. Perhaps the best we have at the moment is what Dennis has suggested, but we still need to understand whether there's any problems with Implementation Guidance 15. Saewon?

SAEWON LEE: Sorry.

DONNA AUSTIN: Did you want to take us through Implementation Guidance 15? Or I'll ask another question. Are there any concerns from the group around

Implementation Guidance 15 that we need to iron out, or is this okay?
Michael?

MICHAEL BAULAND:

Michael for the record. Is this Implementation Guidance enforcing the registrar to make that information available, or could it still be a possibility for a registry to decide that they want to publish this information, for example, in their RDAP response, or by other means possible, if they choose to do so? Or are they forced to not publish it and make the registrar do this?

DONNA AUSTIN:

Thanks, Michael. So, one of the things I was trying to remember earlier today was whether we had a recommendation somewhere about data fields. And I think we had something as it relates to the resource domain name, and I guess registries could, or if they wanted to, provide additional information, but I think what we're trying to get to here, Michael, is a specific request for the variant set.

And I think I saw, Satish, in an email from you today that the issue is not just from the registrant but could also be from somebody else who isn't actually a registrant, could be an end user, could be a researcher. And in that case, I think it's probably, or possibly more appropriate that the request goes to the registry. So, I don't know, Michael, whether that's the point you're also making. So, the fact that we've called out registrars specifically here might be a little bit short-sighted, but happy to hear from others. Nigel?

NIGEL HICKSON:

Yeah, sorry, just usual time to get off mute. Thanks very much indeed. I hope you can hear me. Good afternoon. My point, which I made in the email, I suppose, is that I had thought, and perhaps I've just got the wrong end of the stick here, I had thought that this information is very important, because it has implications for decisions that might be made, etc., etc.

So, whereas I understood that the information that is provided on the variant set has to be in compliance with data protection regulations and that, so that a balancing test always has to be made about what can be disclosed and what can't be disclosed. But I thought it would be of concern if there's one thing that the balancing text comes up with information that is stripped down, i.e. some information is redacted, but some information is there. That's one thing. And if that's the only way it can be presented, then that be it. But if the balancing test came up with the fact that no information could be provided at all, then that would be quite serious. And I'm not sure that this text covers that, but then I might be completely wrong. Thanks.

DONNA AUSTIN:

Thanks, Nigel. So, what would be quite serious in your opinion? I'm struggling with the amount of time that we're spending on these recommendations in particular. I'm interested to hear you say that if the balancing test, if the registry or registrar decides as a result of the balancing test that they want to share that information, then that could

be serious. But I'd like to understand a bit more about what you think the seriousness is.

NIGEL HICKSON:

Yeah, no, sorry, perhaps I wasn't clear. Yeah. I mean, I have no problem about that a test has to be done and obviously information could only be shared that the publisher of the information, if you like, is satisfied with. That's one of the tests under data protection. No, my concern was that if no information at all was published. Because I think Satish and others had said on the call last week or whatever that this information is important for a number of different actors to have. So, if we had a situation where this information in general wasn't available to people, then I thought that would be a problem.

DONNA AUSTIN:

Thanks, Nigel. So, I don't really get the sense that anyone is suggesting that this information wouldn't be available. The data protection issue is important, as we all know, because of GDPR. And I'm not 100% sure, but I think balancing tests are done now by whether it's registries or registrars when they have requests for information. So, some of the important bit is how the request is made and who the request comes from. So, it's not just about the information that's being sought, but there's other pieces of information potentially about the requester and what they say that they want the information for or other things like that.

So, it's not straightforward, I suppose, that while we agree that this information should be available and provided when somebody wants

this information, there is some caution, I suppose, that will be undertaken by the registries and registrars when they consider the request. And it's not always just about the data protection, but also about why does the person want this information and what do they intend to do with it? So, I think like requests that come to registries and registrars now, it's just as important that when the request is submitted to the registry operator or the registrar that they understand the purpose or what's involved here. So, there's a lot more to a balancing test than just the data privacy angle to it. Satish?

SATISH BABU:

Thanks very much, Donna. I would like to flag two points in this recommendation in a new language. First is that we completely agree that GDPRs or similar rules in other regions are very important, and they have to be complied with. And we have no problems in applying that rule everywhere. But where I am finding it difficult to understand is that what exactly is the GDPR issue with revealing variant domain names? No private information, nothing about the person who registered it, and so on. I am not able to understand that particular point as to what is the GDPR angle to revealing the variant domain set.

That's number one. And number two, the phrase registrar should accept and consider whether it's the solution. Now, accept and consider is, for me, somewhat weak. It doesn't really make anything binding on whosoever is handling it. I don't mean registrars alone, but whosoever is going to handle it. That language is somewhat weak, because there's no guarantee that accept and consider will deliver results finally. So, these are the two things I would like to flag. Thanks.

DONNA AUSTIN:

Thanks, Satish. So, in relation to your first question about the data privacy, you don't understand that element when you're only after information about the domain name. I think Steve covered this up for us last week. And it's based on advice that the leadership team had received from ICANN org. So, I think Steve said, and I agree with Steve, from a layman's perspective, yeah, it's hard to see why just giving away the domain name information, where's the data privacy element in that. But apparently, there are circumstances where that could. Like Steve, I'm not a lawyer, I don't necessarily see the connection, but the advice that we got from legal is that there could be issues there.

On your second point about there's nothing that requires the registry or registrar to provide that information. And that kind of goes back to what I was just discussing, that it's a balancing test that's undertaken. And it's not always going to end in a, yes, we'll provide the information that you've requested, if there are certain elements of the request that aren't clear to the registry or the registrar in question. And that's something that was discussed a lot around the DNS abuse issue for registries and registrars. It's all well and good to make the request, but the registry and registrar have to be comfortable with the information that's provided in the request, that it's fulsome and accurate. And why the person wants that information may be a consideration as well.

So, it's not always going to be-- I think that's the reason why you have a balancing test. You're not always going to get necessarily the answer that you're after, because the registry or registrar is balancing that request for information against other things. So, I think that's where

that one comes out, Satish. So, I understand that this seems quite straightforward, and I have to admit that I thought it was too, but with the information that we've got from ICANN Legal and trying to understand some of the other nuances, it's not as straightforward as we would like it to be.

I know that's not going to satisfy you, Satish, but I guess I'm just trying to provide some of the color as to why this isn't as straightforward as we certainly as I thought it would be in the beginning. Does anyone else have any comments on this? And, Satish, maybe if the plan for ALAC is to take back Dennis's language, which obviously nobody has supported here or agreed to, but use that as a basis for further discussion, I think it might be helpful to understand whether there's language from ALAC with this recommendation and IG that would be more acceptable to the group.

And I think we have moved away a little bit from the recommendation that was in our draft initial report, but hopefully we can come to some resolution on this. Okay. So maybe we're going to have to push this back out to the list. And, Jen, when you say the registries will be talking further about it further, what's your timeline on that?

JENNIFER CHUNG:

Thanks, Donna. This is Jen for the record. The registries have every two weeks. I like to say biweekly, but that's confusing to some people. So, every two weeks we have the small group call. We don't have it weekly. So, the next call we have will be next Tuesday, and we will talk about it

some more. But currently on that small group's mailing list, Dennis's language has been circulated, and there has been some support.

DONNA AUSTIN:

Okay. Thanks, Jen. Okay. Satisha, I think based on what Dennis just said, I would think that you could take forward what Dennis has put in the chat as a possibility for ALAC. Steve, I don't know whether there's anything else you wanted to say on this topic. I know there's been a little bit of chat with the leadership team, but I haven't been able to pay attention to that. Steve, go ahead.

STEVE CHAN:

Sure. Thanks, Donna. I have two quick comments. One is that for Implementation Guidance 15, we tried to write the text in a manner that is data privacy law agnostic. And we're actually still checking with some of our colleagues that supported the EPDP on reg data just to make sure that we've written it in a cogent and clear and logical way just to make sure that the language checks out from their perspective. So, that's one.

And then the second is in respect of Satish's concerns about whether or not the data would be disclosed. And I was wondering if there might be a subtle change we could make for 15 to help allay some of those concerns. It wouldn't take away the balancing test, but perhaps we could word it in a way that says the disclosure of the information would be presumed unless data privacy laws prevent the disclosure or something like that.

So, in other words, just try to make it a presumption that the data would be shared unless it cannot be. So, I'm not sure if that would satisfy Satish and or raise flags with anyone else. Thanks. Okay. And I see a little bit of support from Satish in email. And Donna, if you're speaking, I can't hear you.

DONNA AUSTIN:

Yeah. Thanks, Steve. So, I was just saying, Jen, if you can take back Steve's suggestion to the registries and perhaps, Michael, it's something for the registrars as well to see whether Steve's suggestion would work there. So, Steve, maybe if you can put that suggestion in chat so that it's clear for everybody. Go ahead, Steve.

STEVE CHAN:

Thanks, Donna. I was actually going to suggest something slightly different, which is just to say that staff can package up the text for both recommendations 14, inclusive of the additions from Dennis and then also trying to word what I just said verbally into actual text into the IG so it's actually in written form for everyone. Thanks.

DONNA AUSTIN:

Okay. I'm happy for that to happen. But to be honest, folks, I'm getting really conscious that we may only have another one or two of these meetings left. So, I'm really keen to close this out and also the grandfathering because we've got a bit of work to get the final report done and also get consensus designations on all these

recommendations because we are starting to push up against a deadline to get this final report to the Council.

So, I don't want to keep doing rounds of the kitchen on this. So, we need to find a way to reach agreement on the recommendations. Or if we have consensus from most, then we need to see what's acceptable and what's not. Okay. So, what else have we got today, Saewon?

SAEWON LEE:

Actually, the next one is going to be quick. So, it's actually good that we spend more time on this because this is the most important as well as problematic topic. So, the next agenda was just going through the comments in the working documents. But so far, there are no comments in the glossary or the working document that have been circulated. So again, I don't mind spending more time on 14 and 15, but just to move on.

So, again, the documents have been circulated for review, but there have not been substantive comments. But just to point out some updates, especially for recommendations 18 and 20 because that language had been circulated in the mailing list. Let me get that quick. Actually, so we can check this as well, but I think it might be better if I share this through the email screen. So, through the mailing lists, we shared with you the updated language for 18 and 20, which was the discussion that we had had at the end of our call last week.

Thank you, Nigel. And so, we shared the updated language and their respective rationales, which was requested for feedback, but again, we didn't have any. Just to kind of give you a brief overview, so

Recommendation 18, the main update is related to this line. Again, I'll share with you in the chat. So, the problem about the ccNSO Council's involvement, we've updated the language to the documented process must be approved by the ICANN Board in consultation with the GNSO Council and ccNSO Council.

And the rationale was given where ICANN Board has the responsibility for the process itself of developing and updating the guidelines, but consulting with the GNSO Council and the ccNSO Council along the way. And then Recommendation 20, the update was made to this. So, any future versions of the IDN Implementation Guidelines must be approved by the GNSO Council prior to consideration by the ICANN Board. And so, we've taken out the ccNSO Council for approval, but then as shared in the rationale, we made a note within the rationale that ccNSO Council's consideration of the guidelines should be sought prior to its approval. And obviously this is to ensure that the impacted parties are all aligned with the changes and the updates to ensure consistency.

So, this updated language, as well as the rationale was shared with the team. And we are hoping for conclusion on this today. If you agree, please add it to the chat. If you have any questions or suggestions or objections, please do raise your hand and I'll open the floor again. Okay. There's agreement. Thank you, Anil. Thank you, Satish. Thank you, Michael. Thank you, Hadia. I know the registries submitted this comment and had the problem with this. And if you need to discuss with the team next week, as you mentioned, and conclude then, I guess we can again push this back for next week. But I don't see any agreement from the registries yet. Yes, Jennifer.

JENNIFER CHUNG: Thanks, Saewon. Jen for the record. I did mention this new language or the new formulation during the Registry Stakeholder Group call yesterday. There has been some discussion on that. I don't think there is a lot of pushback saying that this is not what we're desiring. But as you mentioned, we do have our call next week on Tuesday, we'll sort through that. Right now, the circulated texts, I don't see any pushback there yet either. So, I mean, I am cautiously optimistic that I think we're okay with this, but let's hear from them after, I mean, let's hear from us after we have our call. Thanks.

SAEWON LEE: Thank you. Then we'll move on. At least just pending the confirmation from the registries, I think most of the other groups and the members agree. So, we'll move on and just wait for that next week. Again, just to mention that because we don't have any other comments, I am going to flag again, which also was circulated through the email, that in the working documents, pages 11 to 14 have also been updated for review. And this is in relation to Recommendation 6, which was concluded last week, but because there were some issues with the rationale, it's been updated based on the discussions that we had. And so, if the team can just review this and again, provide your feedback or questions, if there are any.

The other thing that I did want to mention is we'll be also hearing back from the Transfer Policy Review Working Group on the outputs 10 to 12 to see if there's any negative impacts or inconsistency issues. At least

so far, when I checked yesterday, again, there doesn't seem to be any concerns. So, fingers crossed that we can give you a clean out by next week. Other than that, again, just because there aren't any comments so far, there's nothing else to really point out other than just concluding or tying a few ends here and there within the documents. Before we go on to the next one, are there any other questions related to the working document, the review itself or anything that we've discussed so far? If not, Donna, do you have anything to add?

DONNA AUSTIN:

No, not really. Sorry about sounding a little bit panicky that we're going to be late for our date with the Council. It's probably a little bit of I just want to get this done, from a very personal perspective. But please, to the extent that you can prioritize discussions on 14 and 15 within your groups and provide some input on the list so that everybody can see where everyone is because I think that will be our focus on our next call to try to get that sorted and so that we can stabilize the language for all of the report.

And once we have that, then we can-- and I think next week we'll start to talk about the process that we'll go through for the consensus call and what our next steps are because I know this is going to be a bit of a lengthy report by the time we finish it. So, I want to ensure that all the groups have had a chance to do a good read through so that when we want to finalize the report, we've had a good edit as well. Unless, Saewon, did you have a work plan that you could go through now or do you want to leave that till next week?

SAEWON LEE: I think just to reassure you and everyone, I just thought it might be good to kind of share what is planned so that maybe we can work through the timeline and hopefully we can conclude in time. If that's okay, Donna?

DONNA AUSTIN: Sure.

SAEWON LEE: So again, obviously there are still some issues to conclude and a lot. And again, I remember for the initial reports, we were discussing things until the end, especially related to IDN table harmonization. And I guess this is kind of the same pattern that we're going through, but again, just to be optimistic and that we can come to an end soon.

So, we are currently here in still reviewing and completing the deliberations. And though we had hoped to conclude by today, now the date has been set for next week. And yes, I guess we are all becoming a bit anxious, but hopefully we do conclude by next week. If so, we are, or we would like to plan backwards according to these three dates, which are the GNSO Council deadlines that we are trying to work towards.

So, these rows in peach cannot be changed where if we were to provide an update report to the GNSO Council during the October Council meeting and submit a motion for the Council's consideration in November, then the final draft of the report will need to be submitted

to the GNSO Council by the 7th of October. So, if that were the case, then the outputs, as in the recommendations and the implementation guidance will need to be stabilized and reviewed by, again, this is a potential date out there for you, 16th of September, followed by a consensus call, and I've reduced it to 10 days just because of the timeline.

And then during this time, the staff will work in the background, the entirety of the phase 2 final reports in a Word document format. And obviously when it's stabilized, it will be circulated for final review, hoping that this will be concluded by the 2nd of October. And obviously this could be extended to the 4th or 5th of October, depending on how this goes and if necessary. But 2nd of October would be the safest in the sense that if we did need a last team call during this week, this would be the safest bet.

And I know this does all seem tight, but seeing how this team made it work for the initial reports, I'm hoping we can also make it work for the final report accordingly. But yes, everything will be moving tightly if we were to make these deadlines in the peach rows. So, that's just a potential or provisional timeline for now. And it may change next week, but just I wanted to share with the team for future planning. Anything to add, Donna?

DONNA AUSTIN: Thanks, Saewon. So, while Saewon is being optimistic, we still really just have next week to finalize or try to get agreement on 14 and 15. So, any work that you can do amongst your groups will be very much

appreciated to the extent that you can share the thoughts of your respective groups ahead of the call on 12th September, that would be greatly appreciated as well. So really what we're looking at here is our last call on the substance of the recommendations is really next week. So, that's what we're aiming for. And hopefully we can find a way to get it all over the line.

So, Jen, not to put any pressure on you in the registries, but I know you meet every other week, but this might be the last opportunity for your group as well. So hopefully we can get this done. And I really do appreciate that with these hybrid representative PDPs, it is necessary for you guys to take all this back to your groups and have other conversations and relay what's happening here. So, I do appreciate the diligence that you've all gone through in that regard. And I guess the fact that we're here and almost have this done is a reflection of that. So, I appreciate it.

So, I think with that, we can probably get 30-odd minutes back in our respective days and look forward to next week. So, is anything else from anyone before we call it an evening or a morning or whatever it is? Okay. I think we're good to go. So, I think you can end the recording. Thanks, Devan.

[END OF TRANSCRIPTION]