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BRENDA BREWER: Thank you. Hello, everyone. This is Brenda speaking. Welcome to RDS-WHOIS2 Plenary Call #47 on January 28, 2019 at 15:00 UTC. Attending the call today we have Volker, Lili, Dmitry, Alan, Susan. We have no observers.

From ICANN Org, we have Jean-Baptiste, Jackie, and Brenda. I do have apologies from Erica. And Stephanie indicated she'll join us shortly.

Today's call is being recorded. I'd like to remind you to please state your name before speaking. Alan, I'll turn the call over to you. Thank you.

ALAN GREENBERG: Thank you very much, and apologies in advance. I do have some construction work going on and there may be some noise on occasion. Are there any changes to statement of interests?

Hearing nothing, then we'll go on to the first part of the agenda. We're looking at a pretty large number of changes that we are proposing that come out of editing runs over the last little while.

First one is on strategic priority and I added a sentence. The sentence was talking about, as outlined, the ICANN CEO was furthermore instructed by the ICANN board to oversee improvements to enforce contractual conditions related to WHOIS in registry and registrar agreements. The CEO is also instructed, although it's not relevant to this section, to do outreach.

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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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However, there were recommendations that don't fall under those buckets. One of the reasons that the original WHOIS team was somewhat perturbed is the board did not say implement all of the recommendations but identified some of them. Only some of them. Nevertheless, they all were implemented. So note of that, I added the sentence: we note the CEO is instructed to oversee changes related to specific areas and not all of the changes recommended, but that was in fact done. I'm not sure if that last part of the sentence is clear.

Susan, as a former team member of the first review team, does that sound okay to you?

SUSAN KAWAGUCHI:

Yes.

ALAN GREENBERG:

Okay. But that was in fact done. Is it clear what the "that" was, that the changes were implemented or were not implemented? [inaudible] changing it to "but" in fact all recommendations – no. Actually, one of them was not implemented. Okay, I'll try to clean up the wording to make sure it's not confusing. I don't like wordsmithing on the fly.

Okay, the next one is just a formatting issue.

Analysis. We need a short paragraph at the end saying the review team was ... Okay. This is on the section of strategic priority talking about the committee and we have under analysis, according to feedback from ICANN Organization, the ICANN board receives CEO updates on a

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trimester basis or on the status of key organizational activities including RDS improvements. No documents were provided.

This is at the end of the section talking about the failures of the past board committee and I realized in our recommendation we say when you form a new committee, make sure you have a charter and things like that, but we never actually note that we were told the old committee was dissolved and I'm suggesting that we not use the word dissolved because it's not clear what the actual status is, but simply say the old committee is no longer active. Susan, does that reflect what we were actually told by Chris? Because I don't remember the exact wording.

SUSAN KAWAGUCHI: Yeah. If I remember correctly, [inaudible] mentioned it, too. They no longer had either whatever they call it – working group or a committee.

ALAN GREENBERG: Yeah. It may have been a caucus. I'm not sure.

SUSAN KAWAGUCHI: Yeah. I couldn't remember the term.

ALAN GREENBERG: Okay. But simply a vague term saying no longer active I think covers it and explains why we're making a recommendation looking forward

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instead of what is being described as the current committee. I'll add something to that effect. Next slide.

This is on strategic priority which again that was Cathrin's, I think. It says that most global organizations started responding to GDPR-related things in 2012. I can't in clear conscious say that. Just given the number of privacy statements that were changed last May, I think the best we can say is May. I certainly can't accept most. Is many okay with you or do you want to make it even weaker? I'm not sure how many people really started responding in 2012. If I don't hear anything, I'll assume. Yes, go ahead.

SUSAN KAWAGUCHI:

I don't think even many global corporations, maybe some local corporations in the EU can [inaudible] from that. But I think everybody has pretty much waited until there was worry of fines. So, I would say some.

ALAN GREENBERG:

Okay. Jean-Baptiste, if you can note that. Alright. Next one is ... These recommendations are aligned with as – sorry, something is wrong there. Let me pull up the original document. That seems to be multiple sentences merged together. I'll just go to the original document.

JEAN-BAPTISTE DEROULEZ:

Alan, see the section just before recommendations.

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ALAN GREENBERG: Okay. I don't see changes like that in this document. Saved on page 11.  
Oh, okay.

JEAN-BAPTISTE DEROULEZ: Yeah. Because the changes I think were accepted but they were made—

ALAN GREENBERG: Oh, okay. Okay. So, I'm not quite sure what was there before. Okay, I think it's just a clean-up of the previous sentence or a rewriting of the previous sentence. There's a typo in it that is "should be already seeks to reflect" and the focus is too much on compliance. Okay, that's just a rewrite of a sentence for grammar. So, I think we're okay there. I see Jackie has already made the change in the document, so we don't need an action item. Alright, next item, please. Alright, that's the footnote that we already discussed and approved, so I think that one is fine. That's addressing the NCSG comment that they don't understand the numbering. It's still not crystal clear, but I don't think it's going to get any better.

Number 12. Alright. That's a rewrite from Cathrin of the rationale for the recommendation on monitoring things and I think it reads okay as it is. It's hard to read with all the changes, but I believe that's okay unless anyone has any comment. I'll give you a chance to parse the whole thing. Volker, please go ahead.

VOLKER GREIMANN: Hi. Just a question. I'm just trying to read the first part of the rationale and I don't see any changes between the [right] part and the added

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part, unless I'm overlooking something here. Can you just ... It seems to be word for word the same if I'm [inaudible] actually changed.

ALAN GREENBERG: You're right. And I don't know. But if it hasn't changed, I think we can accept it anyway. I'm not quite sure what—

JEAN-BAPTISTE DEROULEZ: It just makes it hard to spot the changes with all the editing—

ALAN GREENBERG: Yeah. I understand. Jackie, this is something that Cathrin did. Is that correct?

JACKIE: Yes.

ALAN GREENBERG: Well, you're right. I hadn't caught on to that. I was just trying to read what was left and I didn't look at the taken out part. So, I think we can accept it at that point, assuming there were no changes. Thank you, Volker, for catching that. Alright, next slide.

JEAN-BAPTISTE DEROULEZ: Hello?

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ALAN GREENBERG: Yes?

JEAN-BAPTISTE DEROULEZ: Sorry. I had my hand raised.

ALAN GREENBERG: Oh, I'm sorry.

JEAN-BAPTISTE DEROULEZ: No problem. Do you recall what was meant by [soft] policy measures?

ALAN GREENBERG: Oh. I think the issue was it's not necessarily legislation, but there can be other actions that are taken by governments that effectively change our environment. I think that was a reference to – I'm trying to remember the example we gave and Volker may remember or Susan. I think we were concerned that if they just look at legislations, they may miss important issues. So, it can be existing legislation where the enforcement actions change. It can be other things other than legislative action that may change the environment. So, we're saying that have to be conscious of what's going on, not just looking at legislation in a very tight way. I'm not sure. Maybe other words are better, but that was the intent.

JEAN-BAPTISTE DEROULEZ: Would it be worth clarifying that maybe in the rationale?

ALAN GREENBERG: I'm not quite sure what wording to use. If anyone has any suggestion, I'm open to it. Cathrin, unfortunately, is not on the call. Oh, Cathrin is on the call. Sorry. I see Cathrin has joined us, as has Carlton. Cathrin, do you have any insight into this? This is your change, although Volker noted that at least how the document is marked up on the screen, there was no change, just retyping of the same words. But nevertheless, do you have any thought on do we need to elaborate on what soft policy measures mean? Can Cathrin speak?

CATHRIN BAUER-BULST: Yes. [inaudible]. Sorry I'm late. Can you hear me?

ALAN GREENBERG: Yes, we can.

CATHRIN BAUER-BULST: Okay, excellent. Did you want me to say something more than hi?

ALAN GREENBERG: Yes, I guess you weren't on voice when we asked the question. Volker asked the question – sorry, Jean-Baptiste asked the question what's do soft policy measures mean? Jean-Baptiste had pointed out that although it looks like this paragraph has many changes, it seems to be the result is the same as the beginning. That may be a result of how it



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was marked up. I'm not sure. So, if you could comment on both of those.

CATHRIN BAUER-BULST: Yeah. So, there's one part that [inaudible] has deleted. I don't know why. Which basically [inaudible] reiterated right after the [deleted] thing. So, that's identical. Important to also take into account the relative non-legislative developments such as soft policy measures which are identical to the previous text that was there. Or guidance provided by. That's actually new. Or guidance provided by authorities on the implementation of relevant legislation. That's an edit that is not from me. That basically [inaudible] to reflect the issue that was raised by other team members at the face-to-face that it shouldn't just be legislative developments that should be monitored. It was [inaudible] rightfully so.

And soft policy measures are things like guidelines for certain desired behaviors or any kind of non-binding tools, basically codes of conduct or other agreements that are entered into voluntarily. That's what we meant by soft policy measures. If that's not a term of the [inaudible] but we can certainly replace that with something that's more accessible.

ALAN GREENBERG: Why don't we just put a footnote saying "such as" – sorry. I've lost what you just said. Guidance documents or best practices.

CATHRIN BAUER-BULST: That sounds excellent.

ALAN GREENBERG:                    Alright. There's a last paragraph on the page that's deleted. I'm not quite sure if it was moved somewhere else or it was just felt we didn't need it. If you have any memory of that, Cathrin, please contribute.

CATHRIN BAUER-BULST:            Yes. That's the sentence that we moved from rationale up to the analytical part. [inaudible] suggestion that this was a very good summary of the actual [inaudible] of our analysis [inaudible]. But that shows us elsewhere in the document further up.

ALAN GREENBERG:                    Okay. That's what I thought was the case. Alright. Let's go on to the next page, unless anyone has any questions on this one. I hear nothing, so page ten. Oh sorry, page nine.

Implementation has ... Okay, we again have wording that seems [inaudible]. Let me read the final version.

JEAN-BAPTISTE DEROULEZ:         Cathrin has her hand raised, Alan.

ALAN GREENBERG:                    Oh. Cathrin, please go ahead, then.

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CATHRIN BAUER-BULST: [inaudible] changes were made to accommodate the fact that the Board Working Group has been dissolved and that were basically trying to make the language more open-ended. So, rather than referring to an existing Board Working Group with charter might need to be [inaudible]. We speak more [inaudible] of any charter or for any [inaudible] need to do certain things and correspond to certain criteria.

ALAN GREENBERG: Okay. Thank you. I think that's clear, then. I'm not worried about the exact wording. We're going to have to do a very careful file, proofread of this, to make sure ... And Jackie will be doing that, to make sure the sentences all parse after these are accepted, but I think the intent is fine. Next slide.

JEAN-BAPTISTE DEROULEZ: Alan, can I just quickly comment on the one sentence?

ALAN GREENBERG: Yes, please go ahead.

JEAN-BAPTISTE DEROULEZ: In the implementation when [inaudible] should be implemented as soon as possible, and at the latest within six months ... Do you need to take the phone, Alan?

ALAN GREENBERG: Yeah. Just give me a second, please.

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JEAN-BAPTISTE DEROULEZ: Yeah.

ALAN GREENBERG: Sorry about that.

JEAN-BAPTISTE DEROULEZ: No problem. So, on this [inaudible], hearing in the implementation, just to note, I recorded ... When we had the operational input on the last day of the face-to-face, there was a concern that this [inaudible] infeasible given the six-month timeframe. The board has to action on the recommendation for the [inaudible] ICANN bylaws. So I'm just wondering whether this should be updated soon.

ALAN GREENBERG: I read this as six months from the time the board accepts any recommendations. So I think that is fine, if we have timelines and if we have ... I don't know to what extent we have timelines like this. We do have a number of others I think in at least one or two places that I can think of and I would ... Perhaps we need a global note somewhere saying any timelines are in relation to when the board accepts the recommendations. Let's see if we can perhaps make a note to add that somewhere. Alright. If there's no other items, let's go on to the next slide.

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This is just correcting. Again, changing the recommendation and the findings to reflect the fact that we're now talking about a new committee, not the existing one. I see no hands. Next item, please.

This, again, is Cathrin's changes to reflect the fact that the committee is a new one at this point. I'll give you a moment to look at it.

JEAN-BAPTISTE DEROULEZ: I just wanted to mention as well that the link to the report in there is just below the agenda on the right side of the screen and I'll put it in the chat as well.

ALAN GREENBERG: Thank you. Alright. No comments on this. I think this is all in line with what we previously agreed to. Next one, please. I'm having trouble understanding what this change is. It's not one—

JEAN-BAPTISTE DEROULEZ: Here, Alan, you added a footnote that's under a single WHOIS policy. That's one of those changes you had listed.

ALAN GREENBERG: Yes, okay. Just noting the PDP ... The original text notes that the PDP was suspended. It looked like the simplest way to note that it had since been terminated is to add it as a footnote. I see Cathrin.

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CATHRIN BAUER-BULST: Yes. It's a simple one. Can we just not replace the text [inaudible]? Do you want to leave it as-is? Because I'm wondering whether [inaudible] any other body.

ALAN GREENBERG: I don't know. I did that because it seemed simpler at the time but let me look at the original – at the full document right now. Sorry, I've got to get to the right document. Too many.

CATHRIN BAUER-BULST: We could just say something like [inaudible] PDP Working Group was terminated. The documents are in the [inaudible] here, if you want to put a link to the work that they did. Then we don't have to go into all the details about how the [final action is still pending] which no longer [inaudible] now.

ALAN GREENBERG: Yeah. Okay. So, if we say after 27 months of contentious deliberations and [phase one] portion of the road map work plan, Next Generation PDP was suspended and later terminated due to the ongoing effort to address GDPR. Does that sound okay? And delete the rest of that paragraph. Ongoing effort to address the GDPR or address GDPR.

Alright, next item. Still on single WHOIS. Yeah. Okay. It currently reads: in event that the ICANN board adopted the temporary specification that the consensus policy expected. It doesn't read – I think what it's trying to say is that the board adopted the temporary specification with the hope that the consensus policy was expected to ... No. Someone help

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me here. In any event, the ICANN board – and there should not be a dash there – adopted the temporary specification with the hope that the resulting consensus policy would form the basis for a single WHOIS policy. I think that says what we’re trying to say. It’s not 100% clear that will be the case, but that I believe was the intention of the board at the time. Alright, no comments.

After the summary findings which you see there, there is then a section called research findings and the subgroup followed the timeline from release of the WHOIS report to present current time. The RDS WHOIS-2 Review Team examined their responses to the WHOIS. Next slide.

And it went into some detail about what was done. Now, it surely shows the diligence of this subgroup, but I’m not sure this all adds a lot to the report. Carlton, this is yours. It’s an interesting piece of writing, but I’m not sure what it adds to the report. Do you feel strongly about it? Carlton, can you speak?

Okay. I note in the chat that Carlton put a replacement sentence in for the one we were just working on and it sounds pretty clean, so perhaps we can capture that.

Carlton says he can write but not speak. The question is: do you feel strongly about this whole section? Does it add enough to the report to warrant a page of document or ... It certainly documents what you did and shows how diligent you are, but I’m not sure ... Alright. Carlton said he’s not wedded. Does anyone see any need to keep this section is? Jackie is typing. If she wants to speak, please go ahead. Jackie says she’s

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already removed the dash. Alright. Then, we'll delete this paragraph, this section. Next page.

Recommendation single WHOIS. This is the section on recommendations where there's a problem, first of all, in that the lead-in sentence says however the review team – and number one says the review team accepts that WHOIS-1 Review Team's recommendations are fully implemented. The next three points don't follow, however, the review team. And the question is do we want this content here under recommendations since we are not making recommendations? And if we don't want it here, does it need to move somewhere else or is it simply restating conclusions that we already came to earlier in the document?

My inclination is to put simply none under recommendations and look at whether there's any content in these four bullet points that are not already stated somewhere earlier. My inclination is to ask Carlton to look at the document and see whether this is just repetition or it's stating anything new. I see Carlton is typing.

Alright, Jackie, if you can make a note to see how those four bullet points fit in the research section, they may be partially replication or there may be something there which we need to work into it. Next slide.

This was a request from ICANN Org to clarify what we meant by saying the data on the WHOIS portal needed reorganization and I added a paragraph – or a sentence, rather – saying the current topic headings on the main portal are suited to those who are looking for information on



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specific issues. That is, they already understand the basics, but could benefit from groupings aimed at novices looking for an introduction or targeting a specific group such as current registrants.

The next item was ... So, I think that addresses the ICANN Org comment and certainly the Implementation Review Team can further add to that if it's not sufficiently clear.

The next item was an action item to add an implementation note that the review team does not have any input to the ICANN budget. That was driven by a comment from the NCSG saying they don't think we need outreach at all, but in any case, it shouldn't affect the budget. I'm not quite sure why we suggested at the face-to-face that there be an implementation note. I would think this is better targeted as simply a comment in the public comment tool in response to their request. Unless someone has any objection, I would not do an implementation note in the report because it's really a non sequitur in the report saying we have no input into budget. I see no hands or any comments, so I will accept that. Next slide.

This is on compliance. We had an action item for Susan to clarify that ICANN will not go on fact-finding missions but use information that they currently have on hand, input received. And Susan to clarify compliance enforces registrars to enforce data accuracy for registrants. Confusing sentence, but Susan is that something that's already been done or still on a to-do list?

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SUSAN KAWAGUCHI: I think it's been done, but I didn't double check that. I did not get through my to-do list for all of these slides. I will do that by the end of the day and get it done.

ALAN GREENBERG: Okay. Then let's assume it will be done and are able staff will keep tabs to make sure you and I do the things we promise. Next one.

SUSAN KAWAGUCHI: [inaudible] when it comes to me.

ALAN GREENBERG: Alan to add a paragraph on the current situation pointing out the paradox of goodwill versus doing it properly. I had trouble understanding what this sentence meant, but in talking on the leadership call I remember. The problem is that, right now, and possibly continuing under whatever the EPDP decides on, compliance is not able to look at the WHOIS. So, they currently have to ask the registrar, "What does the WHOIS say?" And the registrar tells them in theory what the WHOIS says. But they have no way knowing whether the registrar is actually quoting from the WHOIS or simply making up information and sending it to them. So, how can compliance verify that WHOIS is accurate when they can't actually look at it? The challenge is to put that in a sentence that's understandable.

Now, presumably, most registrars will not lie to compliance and tell them something that isn't there, but there's no way for compliance to know and that sort of defeats the purpose of what compliance is there

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to do. So, I'm going to try to put that into words that don't sound too egregious but point out that there is a potential problem. And unless anyone has any comments ... Cathrin, please go ahead. Cathrin has put her hand down. Okay, she says she agrees with Alan. I'm assuming that's all you were going to say. So that's still an action item for me. Next page.

This is one for Lili. This is under the section on accuracy and it says the ARS project has only checked a small fraction of RDS WHOIS records and quotes the number. The improvements of WHOIS data quality across the whole gTLD space is therefore still very limited.

Now, Lili, I'm having trouble understanding this. The ARS project was never intended to actually act as a vehicle to fix accuracy but just to monitor it. So, I'm not quite sure what you were planning to get ... I'm not quite sure what the purpose of this paragraph is. I see Cathrin has her hand up. We'll go to Cathrin once we finish this item. Lili, can you add any insight? I mean, what you're saying is true, but I'm not sure it's relevant.

CATHRIN BAUER-BULST: Sorry, I couldn't get off mute earlier. Can you hear me now?

ALAN GREENBERG: Yes, we can.

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CATHRIN BAUER-BULST: Excellent. Sorry about that. So, what I wanted to say on the previous point of the situation where compliance [inaudible] access to the WHOIS, is that unless there is a clear obligation, the access of compliance would be based on 6.1F of the GDPR or [13 says of subject] which basically means that the registrar would have to balance the interests of compliance in their getting access with the interests of the data subject in its data not being revealed. And of course, if compliance is [inaudible] inaccurate WHOIS records and the data subject has some consequences to fear, it's interesting to see how that balancing exercise would come out. So, even more just to underscore the point that there really needs to be solid policy in place because otherwise under GDPR, given the different interests at stake here, it could lead to very interesting results depending on interpretation of the contracted parties.

ALAN GREENBERG: Yeah. I hesitate to get into an in-depth GDPR discussion, but I disagree with you. 6.1F is access to third parties and there seems to be no dispute that, although we don't know what kind of controller ICANN might be, we are certainly at least a partial controller of the data. So, I think access of data to the controller is not a 6.1F issue. It's not a third party. So, I'm not sure—

CATHRIN BAUER-BULST: Well, it depends on how [inaudible] the policy comes out. As it is now, I understand it's not part of the understanding that ... I mean, if ICANN

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were to be seen as a controller at present, it wouldn't be having these issues.

ALAN GREENBERG: The debate seems to be whether ICANN is the sole controller, an independent controller with other independent controllers, or a joint controller. Given that we set all of the policy, I don't see how it could be construed that we're not a controller in some context.

CATHRIN BAUER-BULST: Right. But you're not ICANN.

ALAN GREENBERG: No. Well, I don't think ICANN is contesting that, either. There's no way they can ... Well, they can disagree with anything.

CATHRIN BAUER-BULST: Okay. Well, I wanted to underscore that there really is a need to sort this out and I do think we should absolutely add it to the report where possible [inaudible] debate on the exact modalities.

ALAN GREENBERG: Okay. Jean-Baptiste, if you could make a note that I should consider GDPR controller issues in that sentence I have to add or paragraph I have to add. The issue is a complex one, but I don't think there's any question that ICANN is some level of controller. The concept of a controller that doesn't have access to the data, although it is not non-

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existent in GDPR, it's very rare. That was the legal opinion we got on that. It's an interesting situation. Thank you, Cathrin. Back to Lili. Does Lili have voice access today? We're now on slide 18 and we're looking at paragraph five on I'm not sure what page it is of the data accuracy report. Lili, are you with us? Brenda, is Lili connected with voice? It looks like she's on the phone.

BRENDA BREWER: Yes, I agree. She is connected by phone. I don't see an issue on this end, but that's not 100%.

ALAN GREENBERG: Alright. Let's come back to this one afterwards. Data accuracy. The ARS ... Hold on. Got to find out where is this one in the report after recommendation 5.1. Ah, yeah. I'm just saying this seems to need some level of revision. The ARS has been the only proactive measure to improve data quality. Yeah, this again, is a Lili one. Lili, could you type in? If you hear us, could you type in to let us know if you're going to be able to speak?

BRENDA BREWER: Lili is on phone only, so I don't believe she can see or type.

ALAN GREENBERG: Oh.

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JEAN-BAPTISTE DEROULEZ: Alan, Volker has his hand raised.

ALAN GREENBERG: Yes. Volker, please go ahead. I'm sorry about this being a dentist office.

VOLKER GREIMANN: No. I like that in a humorous way. It's not really loud and annoying. It's just a very low undertone that keeps the [inaudible] coming. I don't know. Anyway, I was just wondering about the statement that the ARS has been a proactive measure to improve RDS data quality. Has it really been ... Was that the target of the ARS? I think it was rather an analysis conducted over time but not really directed at improving RDS data quality. While there has been a result and certain results from the ARS are feeding into compliance to also do some work there, I don't think it was the general intent of the ARS to function in that role.

ALAN GREENBERG: I agree and that's one of the reasons I highlighted this sentence. The other part that I have concern with is that last sentence, saying the most common underlying cause was that registrars failed to validate and verify WHOIS data in the first place.

I'm not aware, but I may be wrong, that there is strong evidence that registrars are not complying with the 2013 RAA. Now, according to previous registration rules, they didn't have to do validation and verification, but this reads as if they were not doing something they were supposed to have been doing. Volker, go ahead, please.

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VOLKER GREIMANN: I agree. The way that the last sentence is worded seems to be saying that this is the only conclusion and the reason for any failures are actually violations of registrars and I think that's a very strong argument to make without any underlying data. I think if we want to say something like that, which I would propose we wouldn't, but if we were to, we would have to caveat that with one possible explanation might be that this is basically drawing a conclusion without showing any evidence for it.

ALAN GREENBERG: Yeah.

VOLKER GREIMANN: We have not seen any evidence of registrars violating their obligations under the [RAA]. And if we don't see any evidence for that, we cannot make that conclusion, that the reason for inaccuracies are violations because where's the evidence?

ALAN GREENBERG: Again, that's why I highlighted. There's another sentence somewhere and I can't locate it right now, that the compliance annual reports indicates a problem there, but right now I cannot find that.

There was another issue. I don't know if it's in these slides or not. Hold on a second. Hold on. There was another issue in the compliance that I



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wanted to ask Lili about, and again, if Lili can't speak, we have a problem here.

JEAN-BAPTISTE DEROULEZ: [inaudible] just written that she was reconnected.

ALAN GREENBERG: Alright. Can Lili now speak?

JEAN-BAPTISTE DEROULEZ: Lili?

ALAN GREENBERG: Now she shows as being on the phone but muted. Volker, Lili has added a sentence to an earlier part of it talking about problems and the conclusion is that registrars normally don't validate or verify WHOIS information in the first place. And this was identified as the most common issue by compliance in their annual reports of 2016 and 2017. So I think we need to go back to those and see exactly what they said because that doesn't sound like something I'm familiar with. And we seem not to be able to talk to Lili. Alright, we're going to have to address these issues via e-mail with Lili. Let's go on to the next item.

JEAN-BAPTISTE DEROULEZ: Thank you, Alan. And when you say we, you mean you?

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ALAN GREENBERG: I guess it does mean me.

JEAN-BAPTISTE DEROULEZ: Alright.

ALAN GREENBERG: The WHOIS Review Team recommendations suggest as non-binding options using a mix of incentives and sanctions to encourage adoption by service providers and enforce this policy once implemented. And I guess it's a question for Volker. I'm not sure how you can have a non-binding sanction. Volker, can you provide any input or do we just need to reword it to not imply that the sanctions are non-binding?

VOLKER GREIMANN: Well, this goes from the original review team. They correctly assumed that there would not be any way to directly contractually bind parties [inaudible] and therefore that's why they're non-binding and they would be saying, for example ... But if they get accredited or if they handled them in a certain way, then we could apply certain mechanisms that would be binding.

For example, if somebody agrees with a voluntary code of conduct or something like that, I think that's where it came from.

ALAN GREENBERG: Okay. I didn't read this as words from the WHOIS-1 Review. If those are their words, then so be it and we're not going to change them. I misread

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this. So, let's leave it as-is, if those were indeed the words they used.  
We can't fix those.

VOLKER GREIMANN: I think this goes back to the discussion that we had earlier with the sticks and the carrots that they recommended in regards to the accreditation scheme which turned out to be a lot of sticks and no carrots.

ALAN GREENBERG: Alright. If the wording comes from there, let's just ... Jackie, if you just make the comment disappear and we'll go onto the next item. Alright, WHOIS 11, common interface. Text needs revision. What text?

VOLKER GREIMANN: [inaudible] the charter itself.

ALAN GREENBERG: Let me pull up the item.

VOLKER GREIMANN: Yeah. It was [inaudible] on our discussion [inaudible] where there was still a few editorial edits that needed to be approved [inaudible].

ALAN GREENBERG: Oh, okay. First question was to ... Whose section is common interface? That is Volker's. Volker, there are some questions highlighted and these

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are questions I believe we asked ICANN. Are these error messages created by ICANN or do they come directly from the registry or registrar? Does ICANN track how often these messages are presented in the response to WHOIS query?

Jean-Baptiste tells me that these were questions we asked ICANN and we got answers. So, where are we now with integrating anything that we want to? Number one, removing the questions and do the answers require us to add anything to the text? Either Jean-Baptiste or Volker.

JEAN-BAPTISTE DEROULEZ: I just wanted to clarify, Alan, that we have sent a reply just after the face-to-face meeting and also Suzannah requested that I resend it to her, which I did.

ALAN GREENBERG: Okay. I think I heard Volker speaking.

VOLKER GREIMANN: It's been a while since I last looked at this at the face-to-face meeting [inaudible] directly afterwards. I think I had made the face-to-face meeting a suggestion of language that was supposed to clarify that, but Susan wasn't happy with that language and wanted to suggest an alternative that was basically a state of affairs at that point.

There was also a comment, a question, in the draft which – with regard to the recommendation 11.1. That recommendation being all one sentence, however I don't see a way of breaking that sentence down

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without making it substantially longer, so I would suggest leaving it like this, like the way it is.

ALAN GREENBERG:

Let me find that recommendation. I believe I said the same thing to Jackie. Jackie, I remember writing a comment that isn't there right now. You may have accepted it since then. But I think this is recommendation 11.1. R11.1 is the one that you suggested, pointed out that it's a single sentence and I said I agreed, but I'm not sure we can do anything about it which is effectively what Volker just said. Am I remembering correctly?

JEAN-BAPTISTE DEROULEZ:

Yeah. You basically noted there was no easy solution, but I should look at it. I have no easy solution.

ALAN GREENBERG:

Okay. There's a section just before the recommendation on rate limiting and I suggested adding a sentence saying although abusive behavior by the common interface needs to be considered, it is not clear that such rate limiting should be applied to the common interface. So, in other words, this is suggesting that the common interface needs to consider abusive behavior, but it itself should not be rate limited. So, people should not be able to abuse it via the common interface, but it's not clear that the common interface should stop working because of registrar or registry-imposed conditions. Volker, you're the one who has most operational involvement. Does that sound okay to you?

VOLKER GREIMANN: Yes. I absolutely agree that it's useless to have a common interface if it's rate-limited the same way as any other regular requestor is. However, that presumes a certain level of care and attention to detail with the people that developed the interface at ICANN to ensure that the interface cannot be abused as [circumvention] of rate limitations or a way to harvest data. While they have a capture on that, I'm not sure how scriptable that is [inaudible]. Basically, it presumes that this portal, this common interface portal, is secure against abuse and once that is guaranteed, then probably the rate limitations could drop or be—

ALAN GREENBERG: You said that very gently. I'm not sure I would have phrased this politely. So, I think the statement stands. The implementation is questionable.

Okay. I think the general feeling is this section may need a little bit more work, but Volker, if you could look at the responses that came back ... You said you phrased responses and Susan was not happy with them. Susan, do you have any recollection of that?

JEAN-BAPTISTE DEROULEZ: Susan is at the meeting—

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ALAN GREENBERG: Ah, okay. Jean-Baptiste, if you could follow-up between Volker and Susan and try to clarify whether there's an issue there, and one way or another, let's get rid of these highlighted questions.

JEAN-BAPTISTE DEROULEZ: Sure.

ALAN GREENBERG: Alright. Next item. Internationalized registration data I think is pretty close. Final annual report I think is pretty close. I have not done the final proofreading on that. I had intended to do a full proofreading this weekend and life didn't unfold quite the way it should have. Any thing new I believe is close to final. Law enforcement, MSSSI. The estimate of hours for MSSSI is not with regard to ... We're now on slide 22 by the way. The estimate hours for MSSSI is in response to a public comment, not to be included in the report. So, although that has to be done, the report is not hinging on it.

And consumer trust. At the face-to-face meeting, we decided—

JEAN-BAPTISTE DEROULEZ: Hello?

ALAN GREENBERG: Yes, please, go ahead.

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JEAN-BAPTISTE DEROULEZ: Sorry. I just wanted to go back to what you said for internationalized registration data and planning annual report. I just wanted to get confirmation on when we can have a green light to send these sections for [inaudible].

ALAN GREENBERG: I hope by the end of today. That's assuming there are no significant changes to be made. In the first sections I reviewed, there are some moderately significant changes. So, we have to make sure they're clean. I don't want to send it to translation and then have to send them another version with significant work done. But in the case of internationalized data, I don't think that's a problem. Annual planning reports I think is also pretty clean, but I'll let you know. I'm going to try by the end of today.

JEAN-BAPTISTE DEROULEZ: [Whenever].

ALAN GREENBERG: Okay. That's consumer trust. We decided to do a significant rewrite of the section. I have sent Erica a summary of what I believe needs to be done and she hasn't been able to get to it. So, at this point, since Erica is not on the call, I think I'm going to do a draft of it and try to get her to agree to review it because we're running out of time at this point.

The intent of it was to focus more on the indirect consumer or user benefits from WHOIS and not look purely at the registrant issues which the earlier section had looked at.



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Jean-Baptiste, is that a new hand? No? Okay.

Safeguarding registrant data. I'm not quite sure what these changes are because the first one seems to be identical wording to the previous one. There's some funny anomaly as to how these edits are being reflected here.

JEAN-BAPTISTE DEROULEZ: Those were changes you have made to the recommendation, Alan, after discussion of the [inaudible]. But I don't think ... I think [inaudible] last sentence here on these slides and these are not being presented on a call yet, just [inaudible].

ALAN GREENBERG: Yeah. The ICANN board should consider whether and to what extent notifications or breaches that are received should be publicly disclosed. We decided on that at the face-to-face. So, I think we've agreed on all of these on the SG1 changes already. I don't believe they've changed.

Contractual compliance. This is CM2 and that was a rewrite that I did and I think we had agreement on e-mail that this is the one related to the grandfathered domains and the ICANN board should initiate action intended to ensure that all gTLD domain name registration entries contain at least one full set of registrant or admin contacts comparable to those required under the 2013 RAA.

Now, Volker you may have seen the message I sent to the EPDP group. When I raised the issue of the fact that if we eliminate the admin field, we could be left with 2009 registrations under the 2009 RAA which do

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not have contact information for the registrant. We don't have e-mail or telephone contact information.

JEAN-BAPTISTE DEROULEZ: Yes, I saw that.

ALAN GREENBERG: James Bladel's view was if they are now under the 2013 RAA, that's the registrar's problem to make sure that they're fixed. But when I looked at the RAA wording, it is curiously worded to say that the information must be collected at registration time and afterwards maintained. So, it's not clear whether ICANN compliance will view this as a registrar responsibility to go back and fill that in or to simply maintain the blank fields which were allowed under the previous registration, thus the question.

So, if it comes back and saying that James is right, that there should be no registrations right now without registration fields, without registrant contact fields, the question is does this recommendation still need to be made?

JEAN-BAPTISTE DEROULEZ: As much as I hate to contradict my esteemed colleague, I think this might be a GoDaddy position around a position that applies to all registrars. Most registrars don't have that problem, but I'm sure I've seen registrations out there that do, at least before GDPR happened. Now it's very hard to see whether that problem still exists or not.

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ALAN GREENBERG: Before GDPR happened, they could well have not been under the 2013 RAA because the middle of last year was the only date. My inclination is it will be interesting to see what ICANN says. I would be surprised if ICANN agrees with James and says it's their responsibility to enforce compliance actions if the registrars don't do it. So, I would be surprised if James is right and I think this recommendation still stands and I don't think it hurts to keep it there anyway despite what their answer is. So, my inclination is to say this recommendation stands. We may find it less relevant than it otherwise would be.

JEAN-BAPTISTE DEROULEZ: I would support you in that assumption.

ALAN GREENBERG: Okay. And the wording we agreed on via e-mail. We'll have to do the final consensus call but that one stands I think. Okay, let's go ahead. We're going to run out of time if we're not careful. Oh, we're not. We are on any other business.

The only any other business I have is looking at going forward. Sorry?

JEAN-BAPTISTE DEROULEZ: Yes, Alan, if I can just add something.

ALAN GREENBERG: Oh, sure.

JEAN-BAPTISTE DEROULEZ: What would be really important moving forward is to think ... Just to confirm which [inaudible] final [inaudible] sent to translation. This is taking several days before this is done and can be included. Also, if you can, when you look at your sections, if you can confirm [inaudible] address [inaudible] in Brussels, that would be [inaudible].

ALAN GREENBERG: I believe ... I couldn't find the ICANN operational input, so maybe if you could send a copy to me.

JEAN-BAPTISTE DEROULEZ: Yeah. That's the link just here on this slide.

ALAN GREENBERG: Ah, there's a link on the slide. So, if I look at the real slide, I should see a link.

JEAN-BAPTISTE DEROULEZ: I'm happy to resend it to you by e-mail if you can do the morning of the face-to-face meeting.

ALAN GREENBERG: Okay, that slide is not on the deck that you sent out earlier today or yesterday.

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JEAN-BAPTISTE DEROULEZ: Yeah. I had to add it before the call because [inaudible] discussion on the leadership call that I wanted to have confirmation [inaudible] final.

ALAN GREENBERG: Alright. I now have that link and I will preserve it. So, I already have that. Thank you. Yes, I will make sure that is included.

With regard to the first bullet, I will give you a list of sections as they are cleaned up. The ones I referred to have a fair number of changes that I have to pass by Jackie. She may have done it already. I haven't checked. But I'll effectively release them to you as I finish them.

JEAN-BAPTISTE DEROULEZ: Perfect.

ALAN GREENBERG: Now, going forward, we still need a list of the current versions of the recommendations to do a consensus call. Jackie has made a number of editorial changes in some of them. We need to make sure that they're done in the right place. Jackie was working at one point on the executive summary, whereas I think we were considering the recommendations within the report itself as the definitive ones. So, we need to make sure we don't have two different recommendations that are going along in [inaudible] two different versions of the same recommendations.

Once we have that cleaned up, we need to issue them via e-mail for the final consensus call and we need to do that moderately quickly. It would

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be preferable, but I'm not sure how practical it is, if we can for each recommendation show the version as it at the end of the face-to-face and then a marked-up version showing what the changes are. That may not be practical. But either way, we need to, at the very least, provide the final version of all the recommendations so we can do a consensus call on them. And I can talk to you and/or Jackie privately on how we get that out. But I think that has to be done this week.

JEAN-BAPTISTE DEROULEZ: But did we have agreement on the recommendations already?

ALAN GREENBERG: I believe we had agreements on pretty much everything. But regardless of whether we had agreements or not, I believe before Volker left we had agreements on almost everything except one or two that he had changed.

JEAN-BAPTISTE DEROULEZ: Oh, in Brussels, yes.

ALAN GREENBERG: But there's been editorial changes which have not changed the meaning – or hopefully did not change the meaning – but have changed the wording. Those are the ones that I was saying that if we can get a marked-up version, fine. If we can't, then we'll live with the current version. But we do have to do a formal consensus call on the whole

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[inaudible]. Clearly, we're not going to get everyone at a meeting, so we're going to have to do it via e-mail.

In terms of timing, I can't see any viable way forward if we do not get this report issued by the middle of February at the very latest. So, the consensus call has to be done by the end of this week.

We have not gotten very many people to go do full edits of their own sections and that simply means they're delegating that to the leadership team and to Jackie. We're running out of time at this point. Any other items?

JEAN-BAPTISTE DEROULEZ: Alan, I just wanted to comment on the fact that you wanted the slides to be sent with the final version. I don't know if that helps with what I have currently, the slide deck with the version of the recommendations [inaudible] draft report and a version of the recommendation [inaudible].

ALAN GREENBERG: I think that would be fine. Ultimately, we need to get the final wording approved on the consensus call to the extent we can show people what the changes were. That may make it a little bit easier.

JEAN-BAPTISTE DEROULEZ: Yeah.

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ALAN GREENBERG: But we don't want people spending six days trying to reconstruct the changes if that's not practical.

Alright. Anything else? Alright. May I suggest instead of reading out the action items because there's a really long list at this point, that we send it out in e-mail and if anyone has any problems, they will have to react quickly.

JEAN-BAPTISTE DEROULEZ: Alright. [inaudible], was there an action item for contractual compliance?

ALAN GREENBERG: I'm trying to remember. No, I don't believe so.

JEAN-BAPTISTE DEROULEZ: Alright.

ALAN GREENBERG: Alright. Last call for any comments. So, action items will go out via e-mail and if you could review the decisions reached and then we will adjourn the call. There will be another call ... Let's look at the calendar for the moment while we're still under AOB. We have the 4<sup>th</sup> and the 11<sup>th</sup>. I would suggest we schedule calls for the next two meetings, for the next two weeks, with the understanding that the report must go out by the end of the week of the 11<sup>th</sup>.

Over to you to wrap up, Jean-Baptist.



JEAN-BAPTISTE DEROULEZ: Thank you, Alan. So, decisions reached, we have the edits and updates to recommendation 1.1, 1.2, and recommendation 1.3 [inaudible] approved. The update [inaudible] recommendation [inaudible].

Consensus call recommendation is to be done by the end of this week. Then schedule the calls for the next week's report to go out the week of February 11<sup>th</sup>.

ALAN GREENBERG: Thank you. I will release the documents to you one by one for translation. Alright. Thank you, all, for attending. Let's get this thing done. Bye-bye, all.

**[END OF TRANSCRIPTION]**