

Adobe Connect:

Alan Woods (RYSG)	Julf Helsingius (NCSG)
Alex Deacon (IPC)	Kavouss Arasteh (GAC)
Amr Elsadr (NCSG)	Kristina Rosette (RySG)
Ashley Heineman (GAC)	Kurt Pritz (Chair)
Ayden Férdeline (NCSG)	Marc Anderson (RySG)
Ben Butler (SSAC)	Margie Milam (BC)
Chris Disspain (ICANN Board Liaison)	Mark Svancarek (BC)
Chris Lewis-Evans (GAC Alternate)	Matt Serlin (RrSG)
Diane Plaut (IPC)	Rafik Dammak (GNSO Council Liaison)
Farzaneh Badii(NCSG)	Sarah Wyld (RrSG Alternate)
Fiona Asonga (ISPCP Alternate)	Seun Ojedeji (ALAC Alternate)
Hadia Elminiawi (ALAC)	Theo Geurts (RrSG Alternate)
	Thomas Rickert (ISPCP)

Audio Only:

Stephanie Perrin (NCSG)

Apologies:

Alan Greenberg (ALAC)
Georgios Tselentis (GAC)
Esterban Lescano (ISPCP)
Emily Taylor (RrSG)
James Bladel (RrSG)
Berry Cobb (Staff)

Audio Cast (FOR ALTERNATES AND OBSERVERS)

Peak: 5 joined

View Only Adobe Connect:

14 joined

Staff:

Caitlin Tubergen
Daniel Halloran (ICANN Org Liaison-Legal)
Marika Konings
Trang Nguyen (ICANN Org Liaison-GDD)
Terri Agnew
Andrea Glandon

AC Chat:

Andrea Glandon: (2/6/2019 07:01) Welcome to the EPDP Team call #43 held on Wednesday, 06 February 2019 at 14:00 UTC.

Andrea Glandon: (07:02) Wiki Agenda Page: <https://community.icann.org/x/gYA2Bg>

Ayden Férdeline (NCSG): (07:58) Hello all

Mark Svancarek (BC): (07:59) Hi ho
Rafik Dammak (GNSO Council Liaison): (07:59) hello all
Terri Agnew: (08:02) finding the line
Alan Woods (RYSG): (08:03) it has! :)
Amr Elsadr (NCSG): (08:04) "stable establishments"
Amr Elsadr (NCSG): (08:05) @Kurt: No, you're doing great. Thanks.
Hadia Elminiawi (ALAC): (08:06) hi all
Seun Ojedeji (ALAC Alternate): (08:06) Hello everyone
Chris Disspain: (08:06) Kurt, I'm working on a response to Kristina's note and will get back to you
Diane Plaut (IPC): (08:07) I agree with Kristina on her points and think there is great value in "agreements" as opposed to "arrangements" from a legal standpoint
Chris Disspain (ICANN Board Liaison): (08:09) Diane, without wishing to pre-empt my response, the use of the word arrangements is congruent with GDPR
Amr Elsadr (NCSG): (08:09) @Kavouss: Sure, the policy recommendations are up to us, but surely, they must comply with applicable law, no?
Chris Disspain (ICANN Board Liaison): (08:10) GDPR, for example, mandates that there must be an arrangement between certain actors but it does not mandate that this arrangement must be encompassed in an 'agreement'.
Thomas Rickert (ISPCP): (08:11) Chris, we discussed that terminology earlier. I am just not clear why you are not ok with an agreement. Do you want to manage thousands of parties with "handshake agreements".
Thomas Rickert (ISPCP): (08:12) Whatever will be settled on, it will need to be in writing and that could even be addenda to existing agreements or schedules.
Alan Woods (RYSG): (08:12) Unless your lead DPA is in Ireland Chris!
Thomas Rickert (ISPCP): (08:12) I cannot understand why we are spending time on this tbqh
Diane Plaut (IPC): (08:13) Chris - although the GDPR uses the term "arrangement" - we must also think practically about implementation from a policy standpoint
Kavouss Arasteh (GAC): (08:13) Thomas +1, I wish to suggest we opt for " Agreement "
Thomas Rickert (ISPCP): (08:13) Thanks, Kavouss!
Marika Konings: (08:13) Not emailed but you can download this document directly from the Adobe Connect room.
Marika Konings: (08:14) so first page has original language, second page has RySG proposed modification and third page has some of the questions that RySG put forward
Terri Agnew: (08:14) silence while being read
Chris Disspain (ICANN Board Liaison): (08:15) I'd appreciate the courtesy of waiting for a response to Kristina's email and considering that response before suggesting spending time on this is not understandable\
Kavouss Arasteh (GAC): (08:15) The issue of difference between "Agreement" and "Arrangement " is being discussed since decades
Kavouss Arasteh (GAC): (08:16) From legally point of view they difference meaning and difference scope
Kavouss Arasteh (GAC): (08:17) I am not comfortable with arrangement which does not have any legal connotation nor could it be used in any type of dispute
Ashley Heineman (GAC): (08:18) Just playing devil's advocate, what is the problem with "arrangements?" I see it as a broader term that doesn't preclude the use of an agreement.
Chris Disspain (ICANN Board Liaison): (08:19) Sorry Kavouss but that is not correct. GDPR mandates 'arrangement' - so to use an example that was brought to the table by Ruth, an arrangement might take the form of legally binding policy or specification. This has nothing to do with handshakes.

Thomas Rickert (ISPCP): (08:21) Chris, I used the word handshake as I do not understand what you want to do if not put the agreements that will be made in writing. It will have the form of an agreement, even though it may be a specification or appendix to existing agreements.

Amr Elsadr (NCSG): (08:22) Is "mean" the right word to use here? The explanation of what it is meant to refer to is helpful, but wondering about the word itself.

Kavouss Arasteh (GAC): (08:22) Rec. 5, Could somebody suggest another term to replace "in the aggregate" as it is not clear in "AaGREEMGATE OF WHAT". what are the component of that aggregation ?

Kavouss Arasteh (GAC): (08:24) pls clarify the meaning of in aggregate

Ayden Férdeline (NCSG): (08:24) I am inclined to agree with Amr; this term is a bit odd to me. Could "aggregate minimum data set" be a clearer term?

Amr Elsadr (NCSG): (08:25) @Ayden: I would say "aggregate minimum data set" is clearer.

Kavouss Arasteh (GAC): (08:26) Kurt, may we ask that explanation and reasons be more concise

Theo Geurts RrSG: (08:27) We have a serious talk with the registry ?

Thomas Rickert (ISPCP): (08:28) Kudos, Alan and team. Although this is a major change, it is the right thing to do.

Amr Elsadr (NCSG): (08:28) @Margie: I'm not clear which Consensus Policy you're referring to (that took years to develop, and that we are now deleting)? Did you mean "thick" whois?

Kavouss Arasteh (GAC): (08:28) Aggregation means summation or cummulation or addtion .What we summing up or adding up or cummulating up?

Matt Serlin (RrSG): (08:28) Wouldn't that be part of the agreement the registrar would sign with the registry that laid out those requirements?

Ayden Férdeline (NCSG): (08:28) Kavouss, the various, assorted minimum data sets

Alan Woods (RYSG): (08:28) we are not deleting the recommendation ... we're saying that the counsel has to look at this and other policies because Compliance with GDPR, as is our mandate, requires it.

Amr Elsadr (NCSG): (08:28) @Alan W: +1

Theo Geurts RrSG: (08:28) Thomas the change is based on the the determination of the EPDP itself

Thomas Rickert (ISPCP): (08:30) Margie, we have been working on this for a long time now and did not find a justification for transferring all data, but just for a subset / mean data set. Additional data requires additional justification, which can, for some be 6 I b and for some 6 I f. Remember, for 6 I f, a party needs to claim to have a legitimate interest. You cannot force someone to have an interest.

Theo Geurts RrSG: (08:32) Correct Thomas

Margie Milam (BC): (08:32) URS- data comes from the registry?

Hadia Elminiawi (ALAC): (08:33) @Alan ok so it is all the data already identified for transfer in the data workbooks for all purposes - this is not what i understood in the beginning

Kristina Rosette (RySG): (08:34) @Margie - yes

Hadia Elminiawi (ALAC): (08:34) @Alan ok so it is ALL the data already identified for transfer in the data workbooks for all purposes - this is not what i understood in the beginning

Amr Elsadr (NCSG): (08:34) The "thick" whois Consensus Policy requires itself to be revised, should conflicts with privacy/data protection law become apparent anyway. So recommendation 5 seems perfectly compatible with it imo. It should be seen to be helpful to its implementation.

Alan Woods (RYSG): (08:35) sorry hadia ... I was probably unclear! :)

Theo Geurts RrSG: (08:35) We need to separate the issue between a purpose and WHOIS, there is no relation

Alan Woods (RYSG): (08:36) https://urldefense.proofpoint.com/v2/url?u=https-3A_www.dictionary.com_browse_aggregate&d=DwIFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xc4I5cM&r=k7uKdjSb7_ZjItyVqrCYHo_rKms9SFxImbYEJqG-

become apparent. This was meant to be flagged during implementation. So technically, we're assisting with the policy's implementation, not conflicting with it.

Marika Konings: (08:49) To add to Marc's recollection of the Thick Whois PDP WG, that group worked on the basis of publicly available WHOIS information and was not tasked to address or consider privacy implications (apart from the transfer of, at the time, already publicly available information)

Hadia Elminiawi (ALAC): (08:52) +1 Margie ewe don't need " provided an appropriate legal basis .."

Sarah Wyld (RrSG Alt): (08:54) +1 Marc

Margie Milam (BC): (08:55) This language has not been on the table for months

Hadia Elminiawi (ALAC): (08:56) the language in red hasn't been on the table for a long time

Theo Geurts RrSG: (08:57) That does not alter the fact that if there are legitimate purposes there is a legitimate purpose to transfer data right?

Amr Elsadr (NCSG): (08:59) The issue isn't that the language hasn't been available. It's that we've known that we needed to determine the legal bases and legitimate interests associated with transferring data from registrars to registries. Our work was never meant to rubber stamp "thick" whois as a GDPR compliant policy. The recommendation, in its current form, is a result of due diligence in considering the issue.

Theo Geurts RrSG: (09:00) I rather move on with RDAP

Alan Woods (RYSG): (09:01) Yes ... we have established the legitimate purposes. But there exists at ICANN whether we like it or not a lack of uniformity and some registries do not wish to get the data. that is up to them. Our established minimum data set continues to persist.... but where a registry (with due regard to THEIR specific processing situations and theirs alone) believe that do not wish this data ... then ICANN cannot force it. This is data protection first aid people!

Matt Serlin (RrSG): (09:01) +1 Alan

Theo Geurts RrSG: (09:01) Agreed Alan, and that is logical

Thomas Rickert (ISPCP): (09:02) 6 I b only works for the small data set, Margie.

Theo Geurts RrSG: (09:02) Indeed Thomas

Thomas Rickert (ISPCP): (09:03) We have looked at this enough so we do not need to spend Ruth's time on that.

Theo Geurts RrSG: (09:04) Are we really going to ask B&B a question that if there is no legitimate purpose to continue?

Alan Woods (RYSG): (09:04) To channel Stephanie Perrin Thick WHOIS is dead The Minimum data set is the new normal ...and +1 Thomas !

Julf Helsingius (NCSG): (09:04) +1 Alan

Ashley Heineman (GAC): (09:05) Sorry being so silent, but it is because there is a lot being said. At a minimum, I need more time to think about this.

Sarah Wyld (RrSG Alt): (09:05) +1 marc

Amr Elsadr (NCSG): (09:05) @Marc: +1

Thomas Rickert (ISPCP): (09:07) Kurt: What was the outcome / next steps of our discussion?

Marika Konings: (09:08) @Thomas - staff took this down as the action item: Action item: EPDP Team to further review / consider this issue and put forward proposed language for the Final Report, factoring in today's discussion (could also be in relation to rec #22). - noting that everyone seemed supportive of Ayden's language so we can produce an updated version which would include that.

Hadia Elminiawi (ALAC): (09:09) @ Kristina the clause says " MAY"

Kristina Rosette (RySG): (09:09) I know, Hadia, but making it a policy recommendation makes it more difficult to change in the future.

Theo Geurts RrSG: (09:10) Agreed Kristina

Marika Konings: (09:10) What if we include under the implementation section language such as: "as part of the implementation, a process for amendments to REgistry - Registrar agreements should be considered"?

Kristina Rosette (RySG): (09:11) Marika, I think that makes sense.

Matt Serlin (RrSG): (09:11) I'd support what Marika proposes

Hadia Elminiawi (ALAC): (09:11) @ Kristina ok

Margie Milam (BC): (09:11) +1 marika

Diane Plaut (IPC): (09:11) Kristina's point is strong - the point is that it says MAY so in fact it is not prescriptive not directive so it does not really do anything with regard to policy - once implementation comes then a recommendation in full can be relayed

Kristina Rosette (RySG): (09:13) @Marika - occurs to me that we should make a minor tweak "process for amendments to Registry-Registrar Agreements needed to implement EPDP recommendations should be considered." Not wedded to that specific language, but we need to ensure that the scope of any considered amendment process is narrow and limited to this issue.

Marika Konings: (09:14) Thanks, Kristina, noted.

Sarah Wyld (RrSG Alt): (09:14) +1 Theo.

Marc Anderson (RySG): (09:14) +1 lowering my hand Theo, you said what I was going to say.

Thomas Rickert (ISPCP): (09:15) Yes, Theo. It would be sufficient to just reference the information duties in the GDPR and leave the exact language to implementation.

Diane Plaut (IPC): (09:15) +1 Marika

Matt Serlin (RrSG): (09:15) Woo hoo...more agreement...

Thomas Rickert (ISPCP): (09:15) Matt, yes. It's almost spooky...

Ashley Heineman (GAC): (09:16) We need automatic applause everytime we agree. good motivation.

Hadia Elminiawi (ALAC): (09:16) @thomas :)

Thomas Rickert (ISPCP): (09:16) bring on the applause machine

Diane Plaut (IPC): (09:16) +1 Ashley

Diane Plaut (IPC): (09:18) Markia - confirming this call is ending in 13 minutes and therefore we will push forward the Rec. 12 discussion to tomorrow's call?

Kurt Pritz: (09:18) @Diane - ending the call now

Diane Plaut (IPC): (09:19) ok thank you for clarifying because I need to jump on another call and want to be part of the Rec 12 discussion

Kavouss Arasteh (GAC): (09:20) Pls end the call

Kavouss Arasteh (GAC): (09:21) We have extensively discuss the issue

Kavouss Arasteh (GAC): (09:24) It good to shift the issue for later stage " at the time of implementation " ???under the implementation section language such as: "as part of the implementation, a process for amendments to REgistry - Registrar agreements should be considered"?

Alan Woods (RYSG): (09:26) apologies all . I need to drop!

Margie Milam (BC): (09:26) yes

Kristina Rosette (RySG): (09:27) Gotta run. Bye all.

Amr Elsadr (NCSG): (09:27) Just wanted to note that we did not all agree that recommendation #5 should be referred to Ruth.

Theo Geurts RrSG: (09:27) Indeed Amr

Kurt Pritz: (09:28) @Amr that is my understanding.

Julf Helsingius (NCSG): (09:28) I think several of us were against it.

Matt Serlin (RrSG): (09:28) thanks all...bye

Sarah Wyld (RrSG Alt): (09:29) thanks all

Hadia Elminiawi (ALAC): (09:29) thanks all bye

Amr Elsadr (NCSG): (09:29) Thanks all. Bye.

Ayden Férdeline (NCSG): (09:29) thanks all
Thomas Rickert (ISPCP): (09:29) bye all
Chris Lewis-Evans (GAC): (09:29) Thanks