
ANDREA GLANDON:

Good morning, good afternoon, and good evening. Welcome to the Registration Data Policy IRT meeting behind held on Wednesday, the 30th of September at 17:00 UTC. In the interest of time, there will be no roll call. Attendance will be taken by the Zoom room. If you are only on the audio bridge, could you please let yourselves be known now? Thank you.

Hearing no names, I would like to remind all participants to please state your name before speaking for transcription purposes and to please keep your phones and microphones on mute when not speaking to avoid any background noise.

As a reminder, those who take part in ICANN multi-stakeholder process are to comply with the expected standards of behavior.

With this, I will turn it over to Dennis Chang. Please begin.

DENNIS CHANG:

Hello, everyone. IRT of the registration data policy. It's the end of September 2020 already and thank you for joining us. We have our agenda as you see before you. We're going to talk about timeline a little bit and hear from staff—Sebastien, I saw him rolling in here and I hope his audio is good. We'll hear what happened at the GNSO Council meeting just last week on this topic where he reported and of course the letter he wrote to them.

We want to talk about the redline documents. There's comments flowing in and I want to talk about the process a little bit and get

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everyone on the same page and agreed on what we should do with them.

Sarah suggested three topics. I think that our agenda is light today, so happy to accommodate all three items that she suggested. And before we go, just let's talk about the ICANN 69 session which is coming up in a couple of weeks on the 14th. It's our regular scheduled IRT meeting but it is being opened to the topic, and then part of our ICANN meeting.

Andrea, maybe what we should do is let's just have you talk about this.

ANDREA GLANDON: Start there.

DENNIS CHANG: Yeah. Start there. [inaudible].

ANDREA GLANDON: Okay. Sure. The meeting will be on Wednesday, October 14th at 17:00 UTC for 90 minutes, our normal meeting time. It will be open to the public, of course, which is obviously different than our typical meetings. Currently, it's not showing on the ICANN 69 website schedule but I'm checking into that to see why that is not showing.

And then also I have sent the IRT kind of a save-the-date for your policy calendar with that date and time so you can have that in your calendar. I will send the Zoom information a little bit closer to the time.

If we use the Zoom information that's not our normal information, that won't be available until 24 hours before the meeting due to wanting to stop the Zoom bombing that happened last time.

So, more information will be coming, and if you have any questions, you can just let me know and I will keep checking into why it's not on the mail schedule.

DENISE CHANG:

Thank you, Andrea, for arranging that for us. What I thought we would do—and let's just finish with this topic since we're on the subject. We're going to carry the agenda here as we normally do in our IRT meeting and I thought since it's open to the public, we'll just do a quick, very [inaudible], introduction and work on message, five minutes, something really quick and then leave maybe five minutes at the end of the meeting for any questions and any comments that we may receive from the public.

Does anybody have any suggestions or input on the ICANN 69 public session? Let me hear from you.

Hearing none, we'll just move on to our regularly scheduled meeting agenda from the top. Let's talk about timeline. Let's see. Here is our timeline on our workbook and this hasn't changed since the last time a couple of weeks ago. The idea here is that we try to finish our OneDoc and then open for public comment. At the same time, we have a DPT going on with CPH and ICANN Org. We call them the ham sandwich team. We're working on that. And of course now we have the redline docs that we're working on here and we'll see how many redline docs

that we can get before the draft, before the public comment, opens. But the idea is to get as many as we can. And we have not decided with 100% of the RedDocs [inaudible] considered required. So that's an ongoing work, but at the same time, it [inaudible] space for us.

Let's see. Is anyone from the ham sandwich team here? No? Hello, hello? Okay.

So, let me then give you a bit of news. The ham sand team is not here, nobody from that team, but I did meet with them on Friday and I asked—or we asked the ham sandwich team, this team here that's preparing the draft for the DPT (data protection terms)—when they might be finished with the document.

They're of course in the process of discussing and negotiating and then sharing it with their registry and registrars, their corresponding teams, and continuing the drafting of that DPT and they think that they are really not going to be able to do that until after the ICANN meeting is concluded. So sometime in November. And then have one more round with their stakeholder groups and possibly have a draft that is ready to be shared with the IRT around mid-December. So that's their target date that they're establishing for themselves.

With that information, what I will do is look at our schedule and see if we can work with that and how that would impact our timeline.

Okay. So, bottom line, in summary, this timeline will be reworked and I will be working on that and presenting it back to you. And as we said, this is still an internal IRT planning schedule and we haven't published it [inaudible] outside of the IRT. So thank you for supporting this.

Is there any questions at this time on the schedule? I see hands. Alex?

ALEX DEACON: Thanks, Dennis. I won't repeat past input I've given on the subject, but I just want to remind you and everyone else that the policy also required three additional DPTs, the DPT between ICANN and escrow and EBRO providers, the DPT between ICANN and the dispute resolution providers, and there's also I think a DPT required between registrars and registries. I don't see any of that listed here. These again are all required by the policy, and again I'm concerned that, without them asking the public to comment would be not a great idea.

DENNIS CHANG: I think your point was well made for this DPT between CPH and ICANN Org, but also you're making the same point for the other DPTs with the ICANN and third parties. Marc Anderson, go ahead.

MARC ANDERSON: Hey, Dennis. Marc Anderson. How's it going?

DENNIS CHANG: All right. [inaudible]. Good headset. I like your headset.

MARC ANDERSON: Oh, good. Glad I'm coming through okay.

DENNIS CHANG: Yeah.

MARC ANDERSON: So, I guess I had a question and I guess it's a little bit related to the email you responded to on if these, what you call the RedDocs, would be part of the OneDoc or separate. I know in your email you said you removed the three appendices so far from the OneDoc that had previously been part of that.

DENNIS CHANG: Yeah.

MARC ANDERSON: So, I take that to mean the intent is to handle these rec 27 tasks separately from the implementation of the other new policy recommendations which I think is fine. But then I guess I'm wondering, in looking at what you just explained in the timeline, it sounds like you're trying to couple the RedDoc's timeline with the OneDoc timeline. And in particular, as far as public comments go, you said you're going to try and get as many RedDocs done by the time the OneDoc goes to public comment as you can. I'm wondering if I heard that correctly and I wonder if you could clarify a little bit more what your intent is as far as timing with the OneDoc and the RedDocs and if you plan to handle them separately or together.

DENNIS CHANG: Okay. Good question. So, yes, it is my [inaudible] desire to have all the RedDocs available for public comment when we open the public comment. But I'm not saying that or committing that we will do that because right now we're making good progress, but as we get further along, it may get more difficult and more time consuming.

So, to hold up the public comment for maybe one or two RedDocs may not be in the best interest of the policy implementation and therefore we may go ahead and open the public comment with a few RedDocs coming along at a later time. So, that's what I meant to say. So, I wanted to make sure that you guys knew what I was thinking and I don't know if what I just said made that clear.

Let me hear back from you, Marc. Did I make that clear?

MARC ANDERSON: Thanks. I think so. So, what I gather is you're trying to get all the RedDocs done by the time the OneDoc goes for public comment.

DENNIS CHANG: Yeah.

MARC ANDERSON: But you're leaving the door open that some could come later if they need more time which makes sense.

I guess a follow-up question, and maybe this is less a question and more of a comment, I would hate to confuse public comments on the OneDoc

with public comments on the RedDocs which I really think are separate tasks. So, I think maybe my comment or suggestion is to, if you go to public comment with them at the same time, treat them separately so as not to entangle the two which I really think are separate.

DENNIS CHANG:

Yeah. Good point. What we're really looking for is comments on the OneDoc, not really on the RedDocs. But if the RedDocs are prepared so that they see the impact of the policy very clearly and if they feel disconnected or inconsistency there, it would be good for us to know.

But it would be a tremendous, sort of an unreasonable request for public comment to give them 40 documents to review and look for all the linkages. But my hope is that there are experts out there who specialize in URS, for example, and they will be the ones—the service providers—who will be looking at these redline documents and say, "Yes, this makes sense in terms of implementation. I can do this." Or bring up an issue that this is not implementable for them to service and it will be nice to know.

Good questions, guys. And we'll talk about the RedDoc in just a minute. That is on my agenda. I did want to talk to you about it some more. So, anymore questions on the timeline? No? Okay, let's continue to ... Hey, Seb, I heard—

SEBASTIEN DUCOS:

[inaudible].

DENNIS CHANG: Hey, how come you sound so good today?

SEBASTIEN DUCOS: Because I fixed my connection issues. I got a new modem from my ISP and now everything is breezy.

DENNIS CHANG: Oh, my gosh. Is that all it took?

SEBASTIEN DUCOS: It's everything it took. Just [inaudible].

DENNIS CHANG: Okay, I'm glad you got it, though. Sounds pretty good. So, tell us what happened?

SEBASTIEN DUCOS: Oh, what happened? So, last week we had a GNSO Council meeting. I had ten days prior submitted the report which I shared with everybody and presented briefly during the council discussion. The minutes said that we had 15 minutes. It seems that it was even shorter.

The minutes from the council came out yesterday. I don't know that they've been published yet.

DENNIS CHANG: We haven't seen it yet but you can tell us about it.

SEBASTIEN DUCOS:

But I can tell you. So, essentially, I presented the report. There was two comments, one from Michele Neylon from the Registrar Stakeholder Group and another one from Marie Pattullo from the BC. And I think [inaudible] there.

What was decided was the creation of a small team. Obviously, none of it was going to be discussed in plenary or in GNSO meeting. There wasn't enough time. But there is a small team that has been gathered. The small team consists of Marie Pattullo from the BC, John McElwaine and Flip Petillion from the IPC, Rafik Dammak from the NCSG, Philippe Fouquart from—I forgot the acronym but the ISPs—and Maxim Azloba from the registries and Pam Little from the registrars.

Philippe Fouquart is basically going to be the next chair of the GNSO. He's the only candidate for the position and wanted to jump in because he realized this is a hot topic that the new chair should be completely aware of. And for full disclosure, I had a private call with him on Monday because he had many, many questions about it all and wanted to better understand the issue.

I am not part of the small team purposely because I wanted to remain neutral and not hold the pen on any of this. But I have been invited by them to participate in the discussion. I won't be holding the pen but I'm definitely there to get a reference of what's going on within the IRT and avoid council reopening discussions that have already been discussed or rehashing something that's already known by everybody.

According to the minutes—and again, they haven’t been published. They’re under review, so I’m only quoting what I have in front of me—the small team will have as a triple task of developing a counter position paper regarding the path forward for expediting the thick WHOIS review as envisaged by the EPDP Phase 1 recommendation 27, so part of the discussion that we had on our last call.

It will have as a second task to develop a formal response to the IRT which I’ll communicate to you. And then as a third task to prepare communication with the ICANN Board regarding expediting the thick WHOIS review.

The team will meet for the first time on Friday. Again, as I said, my colleague, Maxim, represents the registries—I won’t—but I’ll be there as their liaison to the IRT just to feed the small team with the information that I gathered over the last few months [inaudible] topic.

That’s pretty much all I have for you unless you have questions. My two-and-a-half year old singing.

DENNIS CHANG: Is learning the alphabet, I hear.

SEBASTIEN DUCOS: Yeah, exactly. Singing the ABCs in English.

DENNIS CHANG: Excellent. Oh, he’s learning English.

SEBASTIEN DUCOS: Yeah.

DENNIS CHANG: Any questions for Sebastien, IRT members? I don't have any questions. The way I understand it, you're going to have a meeting with small team and then we'll learn more.

SEBASTIEN DUCOS: Again, just to be clear. Small team, we've got Marie Pattullo, Rafik Dammak, Pam Little, John McElwaine, Philippe Fouquart, Flip Petillion and Maxim Alzoba. Feel absolutely free to reach out to any of these individuals should you want to share things that I will include in my report or liable not to share. I don't see what would be missing, but if you feel like anything is missing, please reach out to them also.

DENNIS CHANG: Sebastien, are you seeing the chat from Amr?

SEBASTIEN DUCOS: Has the council small team members discussed the timeline? No. Thank you for the question. The first meeting is on Friday. I suppose that will be discussed then, but so far they haven't met, so no that hasn't been discussed.

As I can, I will report on their progress after Friday and tell you if anything like that comes up. Thank you.

DENNIS CHANG: Okay. Thank you, Sebastien. What I want to do is ... I see Beth has joined us. Beth, I was looking for you—or the ham sandwich team leader—to talk about the schedule. And I did talk to the IRT about the ham sandwich progress and about later December expectations for a draft to the IRT. But maybe you can cover that a little bit more. Beth?

BETH BACON: Sure. Well, first order of business, we decided that we're not calling it the ham sandwich ever again.

DENNIS CHANG: Oh, I'm sorry. What are you calling it?

BETH BACON: No more funny names, no more funny names.

DENNIS CHANG: Okay. Give me a name to call you, that team?

BETH BACON: The Data Protection Terms team. Let's go old school and boring.

DENNIS CHANG: Oh, my gosh, DPT squared.

BETH BACON:

It's boring. So, we did meet last week and we had a discussion about this on the call with ICANN staff, Dennis and Russ and a couple of others on the GDS team. And we are making progress on drafting. We made it pretty clear in that meeting that we know and understand the folks on the IRT want to—and I would say pretty rightly so want to—see the terms and take a look at them.

However, we did make it really clear that Dennis and ICANN staff and others, we have to be very clear about what the scope of that review is because, again, the data protection terms are between the contracted parties and ICANN, so we're going to look to ICANN to make sure that that scope is really clear when we do have terms to review and we do hope that that will happen soon. Again, we're working on the draft and we are making steady and sure progress. Well, swifter progress than we have in the past.

So it's very encouraging. I think we have a good basis on the terms right now. It will cover all of the processing operations that take place between contracted parties and ICANN and should address all those items that are required for personal data.

So, that's kind of just the quick overview. I don't know what else, if anyone has specific thoughts or concerns.

DENNIS CHANG:

No, I think that's fine. Thank you, Beth. Just wanted to give you the floor since you've joined us.

BETH BACON: I'm sorry I was late, Dennis.

DENNIS CHANG: Oh, no problem.

BETH BACON: My Wi-Fi was having feelings.

DENNIS CHANG: Sebastien got a new modem.

BETH BACON: Oh, okay.

DENNIS CHANG: He said it solved every problem. Okay.

BETH BACON: I see a question from Rubens.

DENNIS CHANG: Good question.

BETH BACON: Wow, Rubens. Full name. Are you in trouble?

DENNIS CHANG: Rubens [Henry] Kuhl.

BETH BACON: It says: is the Data Protection Terms team working on registry/registrar data protection terms document?

So, there is already and has been since 2018 an amendment to the registry/registrar agreement that has a data processing terms annex and that's been put in place by I think all registries and that was out of the temp spec. So there is a data processing agreement between registries and registrars and it should be appended to your registry/registrar agreement.

DENNIS CHANG: Okay. Any other questions for Beth? No? Okay. Then let's move on to the redline documents discussion.

So, we have these impacted ... We have so far these lists of policies and procedure, and one the RedDoc column C is ... The linked ones are the ones that we have drafted and asked you to review. So that's how you look at this list. And thank you for the comments flowing in. I want to address this with the team so that you know how you would handle this. [Sarah found an] obvious typo that we made and she uncovered it and she's asking is this an opportunity to correct it also? I certainly believe it is. Why not take the opportunity? Yeah. Let's correct. Thank you, Sarah.

So, my answer is clearly yes and I want everybody in IRT to be on the same page with that. I don't want ... Not necessarily are we going to ask you to go find the typos, but as you're casually reviewing it, if you happen to notice it, flag it and we'll just clean it up as we go. So that's one comment.

The other comment is from Alex and this is another [inaudible]. Obviously, it has a mention and a link but when you try to trace this document, there is no paragraph as such. So kind of an obvious error. So, we should fix that. But in this case, when we fix these, it's not a simple, obvious typo and we're actually going to point to paragraphs. So thank you for the suggestion to make it [6b] of this rule instead of something that doesn't exist. But this one we want to take a little bit more time in correcting it, so [inaudible] will study this to make sure that this link is where it was meant to be and we will be making those corrections as well. So that's what I wanted to tell you.

Any questions on the RedDocs? So far we have not received any comments on the changes that we were making, updates we were making to registration data policy. Roger, go ahead.

ROGER CARNEY:

Thanks, Dennis. I just wanted to make kind of a general comment about the procedures document. I think it kind of leads into basically the text of the disclaimer at the top of each of the other policies. But something in the procedures one talks about—

DENNIS CHANG: Procedures one?

ROGER CARNEY: Yeah, let me check here.

DENNIS CHANG: The URS procedure?

ROGER CARNEY: No, the general one, the RedDocs procedure. It talks about no substantive policy changes through this process.

DENNIS CHANG: Yeah. Yeah, yeah, yeah.

ROGER CARNEY: And I think this kind of carries through to some of the headings on each of the other policies, but I think that's a little deceptive or misleading because there are definitely going to be some fairly major policy changes, especially when we start talking about the technical contact and admin contact, and actually some of the URS changes. I mean, you're talking about several recommendations out of Phase 1 that directly impact those things.

So it seems like it's more than just textual changes. It's actually going to be policy changes as well. Thanks.

DENNIS CHANG: Okay. Yeah. I think I see your point. Let's yield to Alex. Maybe his comment will make things more clear. Go ahead, Alex.

ALEX DEACON: I don't know if it'll make it more clear, but I had the same comment when I reviewed that first doc. Let me just double check. Where is it? Checking.

DENNIS CHANG: Are you going in order? First one was URS rules.

ALEX DEACON: URS ... Hold on. Maybe it's this one. Task 110. I added a comment. Essentially, my comment and concern was the same as Roger's which is we've added sections based on the Phase 1 policy which is I guess okay but it's definitely more than a ... Like this one. Sorry. It's more than just a terminology issue. It's the addition of new text from Phase 1. So, it's not just terminology. It seems to be we're reviewing terminology plus changes from the Phase 1. I just wanted to confirm that that was the case. I'm just trying to find an example of text added to these docs where I commented on the addition.

For example, what is this doc? This is the URS high-level technical requirements for registries and registrars.

DENNIS CHANG: URS high level ... Let me see.

ALEX DEACON: That's the one.

DENNIS CHANG: This one?

ALEX DEACON: Yeah. So, if you scroll down, we've added a new registry requirement 9, which is fine. This is what's in Phase 1. So, my comment to that addition is essentially, sure, while this matches rec 23 URS #1, I thought the focus of this redline exercise was terminology only. This seems to be more than a terminology update to me. So, I just wanted to clarify that I understand what we're doing here. And it sounds like Roger had the same issue.

DENNIS CHANG: Yeah, I know. The word terminology troubled me because I thought it would carry a meaning that we don't intend to carry. But maybe I can turn it over to someone on the GNSO Council when they provided this direction to the IRT. Would anybody from the GNSO Council like to speak to that? No? How about from the staff? Berry, maybe you can. I know you've talked to us about this before, but maybe you can reiterate. The way I understand it is update the existing policy documents and procedures to be consistent with the registration data policy and that does include changes that is on obvious policy change, that is to be consistent with the registration data policy but not go

beyond that to do anything other than [inaudible] the policy. That's the way I understood it. Berry? No? Anyone else? Amr, go ahead.

AMR ELSADR:

Thanks, Dennis. I felt there was a second element to this in terms of the instructions that we got from the GNSO Council. So apart from updates in terminology, I thought we were also supposed to identify where there are potential changes, substantive changes, to policies which may be required as a result of Phase 1 of the EPDP and that those we would need to report back to the GNSO Council on and then they would follow-up and take whatever action they deem to be appropriate. I think it's in the RedDoc plan document, [inaudible] making updates to impact the consensus policy [as the] EPDP Phase 1 IRT is instructed to [inaudible] GNSO Council of possible policy changes are required. So that to me is a second element to our task that we're supposed to be doing. Thanks.

DENNIS CHANG:

Okay. Marc Anderson, go ahead.

MARC ANDERSON:

Yes. I think Amr said most of what I was going to say. I linked in the actual motion from the GNSO consent agenda as 3.2 from the council resolution at their meeting. Let's see, it was August I think. Yeah, I think it was their August meeting.

DENNIS CHANG: August 20th.

MARC ANDERSON: There were two parts to it. It was terminology and updates as described and the staff impacts report and that was something that was put together. I just linked that earlier. So the first step was to make the terminology changes as described there.

And then the second part was and possible actions as described in the possible next steps, EPDP Phase 1 Wave 1 rec 27 document. So that's the second document here I'm also linking for everybody's fun and entertainment.

And then, the point Amr was making, the third part there is in the course of making updates to impacted consensus policies, the IRT is instructed to promptly advise GNSO Council if possible policy changes are needed. I think I'm agreeing with the points everybody has made previously and I hope that's helpful.

Like Alex and Roger, I don't think ... I'm not objecting to these changes. I think they're appropriate and within our mandate but I think, as Roger pointed out, I think in making these updates, we can't say that these are just terminology changes. It's clearly more than that.

DENNIS CHANG: I hear you. Sarah, go ahead. Sarah?

SARAH WYLD: I couldn't find the unmute button. I forgot my hand was up. Marc has said everything I had intended to say. Thank you.

DENNIS CHANG: Thank you, Marc. Roger?

ROGER CARNEY: Thanks, Dennis. I guess maybe if we could get Amr or someone else to clarify what that third really means. I assume that means if there's new policy changes that are required and not policy changes already approved through Phase 1.

DENNIS CHANG: Ah, good suggestion.

ROGER CARNEY: Does that make sense?

DENNIS CHANG: Yeah, it does. I really like [inaudible]. That is how I understand it but the words "new policy change" sure makes it clear. Let me see. Who else had a hand up? Anybody? Sarah, go ahead.

SARAH WYLD: Thank you. Hi. I'm not sure I agree with Roger.

DENNIS CHANG: Whoa!

SARAH WYLD: I know. I don't usually say that. But if it's a policy change, don't we want to be very careful to make sure that policy changes go through a PDP or at least it's the GNSO Council who says they don't need to? And I guess the next thought is that they did go through a PDP. It was the EPDP. But it does seem like kind of a big jump to make. I don't know. I guess I'm just very hesitant about making that decision ourselves. Thank you.

DENNIS CHANG: Okay. Berry?

BERRY COBB: So, I think we're trying to overcomplicate this. Ultimately, as what Marc and Alex mentioned in the chat and in their verbal interventions are correct. We're starting out with terminology updates to these redlines, but the IRT and the IPT are also tasked with having to amend—or I'm sorry, to come in compliance with implementation of the registration data policy. The original aspect was that these were going to be appendices to the OneDoc and it doesn't make sense ... If the OneDoc was the only thing that was changing, then it would make sense to keep those as appendices. But because we're also needing to redline the existing policies based on the Phase 1 recommendations, it makes sense to also not include these larger changes from direct recommendations and keep them as appendices and apply them to these redline changes.

So, in effect, we are doing two tasks here. The first is the redline change for terminology updates. Secondly, making changes as a part of implementing the Phase 1 recommendations. And if through all of this process the IRT disagrees with any of the redlines that it does make a new policy change that is separate from the Phase 1 recommendations, then yes it needs to be communicated back to the GNSO Council.

DENNIS CHANG:

Sarah, go ahead.

SARAH WYLD:

Thank you so much. I appreciate what Berry is saying in trying to put it into buckets—metaphorical buckets. So, certainly we all agree that we can do terminology changes. And I think the question is where can we do broader changes than that? And some of them are appropriate for us to do here because the change is so clear, like the URS change that we were just looking at. But some things are really ambiguous. It says update the thick WHOIS policy in rec 27. So, we all know that this group—shoot, I think this group is not going to update the thick WHOIS policy. Are we? Right? That's our big question.

So, there's clearly some kind of delineation that needs to happen between [changes]. But I don't think we have a good sense of what that is yet and we should definitely figure that out, possibly with the guidance of the GNSO Council. Thank you.

DENNIS CHANG:

Yeah. I think now that I'm looking at it, listening to you, I can see that we can maybe identify three different buckets, one [inaudible] changes like the names, updating [obsolete] names, typos and missing links, whatever it is.

And then second is where we are actually changing the rules and procedures that makes a substantive difference based on the registration data policy to make it consistent.

And the third is where a change that might be considered creating new policies.

So, if that is what you agree with, I think the requests outstanding here from Sarah is for Sebastien—I think we're calling on you to help us, help the IRT here to get an agreement from the GNSO Council that that is indeed the direction.

SEBASTIEN DUCOS:

I'm very sorry, there's a lot happening around here. I heard the beginning of the conversation but I missed the end. Do you mind if we spend five minutes after this call, Dennis, and just review that? I was going to suggest indeed that if clarifications are needed to go back, if not to the full council, at least to the small team that is tasked with coming with those recommendations and we can do that in a shorter loop than the council.

Anyway, I'm sorry I missed the last end of the conversation because things were going a bit crazy here.

DENNIS CHANG: Sorry about that. We can find a quiet moment. Does anybody want to volunteer talking to Sebastien?

SARAH WYLD: I would be happy to.

DENNIS CHANG: Thank you, Sarah. I think that may be better. Thank you, Sarah. So, Sarah and Sebastien is going to have an offline conversation and Sebastien is going to come back with clarity. But right now, I think that's the way I see it is that this is good, this is good, this is okay, this is not okay or something like that.

Thank you very much for that conversation. Any other comments or questions on how we're doing the OneDoc, that before we continue and [inaudible] all the documents, I thought it would be a good idea for us to get on the same page and good thing we did because there were some different ways that we were looking at the whole thing.

It's a lot of work, so the [inaudible], we want to be on the same page too, so don't do anything that is out of scope or unnecessary. We're trying to make it as easy for you as possible.

So, if OneDoc, a redline doc conversation is complete, let's continue with four, section or item four, 4.1. Sarah suggested that we look at our OneDoc in terms of data center escrow provider. Shall I turn it over to you, Sarah?

SARAH WYLD: Thank you. I think the escrow issue linked back to an excellent email that Marc Anderson sent and hopefully he doesn't mind if I put Marc on the spot and ask him to speak to this, please.

DENNIS CHANG: Remember, this was back in August.

MARC ANDERSON: I did not remember but I had a chance to go back and reread it before the call. It's been a while but I did re-familiarize myself with it a little bit. So, I guess it's worth pointing out that in the OneDoc itself, there are basically two versions of section nine, and section nine deals with transfer registration data to escrow providers, which ties back to rec 8.3.

So, there's I guess a proposed new version which is in a box on page 7, 8, and 9. Then on pages 9, 10, and into 11, there's I guess the old version or the original version of the proposed escrow language.

So, I think maybe that's sort of the first thing that's worth pointing out is, hey, right now there's two proposed versions in the OneDoc and ultimately we're going to have to settle on one version.

But I think in reviewing this, what prompted me to write that email is that both of those versions in places seem inconsistent with the recommendations and my recollection of what we discussed.

But I used an example from both the new sections and the old sections that talked about the tech contact. In the recommendations, the Phase

1 recommendations, the tech name, phone, and email fields were intended to be optional to escrow, meaning that the contracted parties could escrow that data but it's not required to. But in both versions, that's note reflected.

The new version, the version that's in the box, basically takes the approach that if you have the data, escrow the data, which I think was suggested to just make it simple. I think that's trying to simplify it otherwise. Somewhat complicated policy which I get, but that really wasn't what the working group had in mind when we drafted those recommendations and I tried to sort of frame that. I said when we were drafting these recommendations and looking at all the processing activities, we really tried to consider privacy by design and data minimization.

And what that entails is we tried to look at just what is the minimum amount of data necessary to accomplish the task? And that minimum set of data is what we identified as the must-escrow data.

There is a breakout group that came up with this initially at one of our LA face-to-face meetings and the registrars on that breakout group identified, hey, if you're the gaining ... If a registrar goes belly-up and you're the gaining registrar taking over their customer's data, what is the minimum data that you need and what is the data you wouldn't use?

What we heard from registrars is even if the tech contact is in the data, they wouldn't rely on it. They don't consider that ... They don't consider that one taking over a registrar's data. They just use the registrant field

and then provide the registrant the ability ... The registrant now as their new customer, the ability to enter in a new tech field. So, based on that conversation, we put that data as optional.

So, I hope that context helps and I hope that's useful in identifying not just where there are discrepancies but why we drafted the recommendations the way we did and what we were going for when we drafted the recommendations.

DENNIS CHANG: I think I see your point. So, you're talking about both registrar and registry operator both at the same time, right? Or are you talking about registry operator only sections three?

MARC ANDERSON: I think it applies in both cases. If memory serves, though, I was actually just looking at the registrar section. Yeah. In my example, I just looked to the registrar section. I think it applies to registries as well, but to be honest, when I drafted that email, I was only looking at the registrar fields.

DENNIS CHANG: I see.

MARC ANDERSON: I would have to go back and compare the registrar fields to what is in ... I would have to double check against what is there for registries. For this

example, I only looked at the ... I just took one example. I just took the tech fields for registrar.

DENNIS CHANG: Yeah, okay. So, to be consistent with what you're proposing, we would take these three elements and say registrar may submit. So you would actually ... You're actually proposing that these three data elements belong to section two, right? Would that be a consistent implementation to what you're thinking?

MARC ANDERSON: Yes.

DENNIS CHANG: Okay, thank you. I wanted to make sure that I understand what you're proposing. I'm going to just write it down here if you don't mind, since you already told me. [inaudible] proposal.

And same thing with registry operator. We don't have a "may" section for registry operator so we would have to create one.

MARC ANDERSON: Yeah. Like I said, I only ... That would need to be verified against the recommendations. I think that's the case, but full disclosure, I only looked at the registrar fields.

DENNIS CHANG:

Yeah. Let us study this a little bit and if that is important and we have to do it, we'll do it. So, let me hear from the IRT. What do you guys think? Are there suggestions? Please look at this for us and weigh in. We do want to make it as simple as possible and not create complexity if we don't have to. But at the same time, we do want to align and be true to the recommendations unless we see a reason that it has to deviate.

The idea here is, if collected or generated ... So, if it wasn't collected, we couldn't submit it anyway. So the conditions still applies. So, in my simple thinking, I would think that we have it and let's just escrow it. But if there is a reason you don't want to escrow it or if it's bad to escrow, then we should ... Sarah, go ahead. You have a hand up.

SARAH WYLD:

Thank you. Hi. Yes. So, I understand that perspective, that if we have it we should escrow, but I don't think I agree. I think we had some specific requirements around what should be escrowed which take into consideration things like data minimization, so we should follow those.

So, I think I heard you say that we'll look back to the recommendation and adjust this section to follow it more closely, moving some data elements out of section 1 must escrow. So I would certainly support for that to be done as Marc suggested. Thank you.

DENNIS CHANG:

Thank you. Yeah. We'll look at that. Thank you for your input, Marc and Sarah. Anyone else want to comment on this? If not, let's look at the next item. Thank you, Sarah.

This is an urgent request, Mark Crossman's email. We want to turn it over to Mark now or what do you want to do, Sarah?

SARAH WYLD: I think that's actually Matthew Crossman.

DENNIS CHANG: Sorry.

SARAH WYLD: He's on the call. I didn't check with anybody to see if they want to speak on this.

DENNIS CHANG: Oh, Matthew. Sorry.

SARAH WYLD: So, Matthew, if you want to speak to it, that would be great. If not, I'm happy to try.

DENNIS CHANG: Matthew is here. I see Matthew.

MATTHEW CROSSMAN: Hey. Can everybody hear me?

DENNIS CHANG: We can.

MATTHEW CROSSMAN: Great. Yeah, I'm happy to introduce this. This was a proposal that we had put together a while back, just trying to think a bit creatively about how we could address the issue of urgent requests.

I think the idea is we want to be able to, in most cases, respond to these in a fast and predictable way. And certainly, most importantly, we want to make sure that those who have made these requests are at least aware that we have received this and we are working on it.

So, we proposed this language about ensuring that there are acknowledgment within two business days and then response without undue delay but within 30 days [inaudible] exceptional circumstances.

So, the intent there is that aligns then with ... I'm sorry. I'm looking at the language. Is that the prior language or is that ... ?

DENNIS CHANG: Are you wanting to see the OneDoc language?

MATTHEW CROSSMAN: Yeah, I'm sorry. I might be a bit confused here.

DENNIS CHANG: Okay, let's see. This was a [inaudible] request. For urgent requests, 24 hours. This is the [refined] language here.

MATTHEW CROSSMAN: I'm sorry. Okay. So—

DENNIS CHANG: For urgent reasonable requests, lawful disclosure, registrar and registrar operator must acknowledge and respond within 24 hours from receipt. [inaudible].

MATTHEW CROSSMAN: Right. I'm sorry, can you go back to that previous page? Okay. Apologies for that.

DENNIS CHANG: [inaudible]?

MATTHEW CROSSMAN: Yeah. So, I think the focus is then actually 10.6. So, I think the idea is that this is an attempt to align with the way that data subject access request are handled under GDPR. So there is a period of time under which you are obligated to respond, but there is also an acknowledgement that there is a bit of flexibility if there are exceptional circumstances that keep you from responding within that time period.

So, I think our proposal is that we would commit to responding ... For an urgent request, commit to responding within one business day, but that we would have that flexibility that if we do need more than one business day from receipt to respond, that we can get that extra time, provided that we provide notice to the requestor that we are going to need an additional two business days.

Again, this sort of aligns with the way data subject access requests are handled. We hope this is a bit of a compromise where ideally we are responding to most of those urgent requests within the one business day. But at the very least, we do sort of still have that flexibility in case these requests are complicated or difficult to respond to, that there is a mechanism for us to get some additional time. But again, we would notify the requestor that we need that additional time.

So yeah, hopefully this is something that strikes a good balance in giving us some flexibility but also recognizing that there will be urgent requests that need to be responded to promptly. I guess that's all I have to say. Sarah, anything else you want to add?

SARAH WYLD:

No, thank you. That really covers it. I think it's a good proposal and, as you said, I think strikes a really good balance. Thank you.

DENNIS CHANG:

Alex, go ahead.

ALEX DEACON:

Yeah, thanks. I think in terms of the urgent request language, I think we're okay with that. If I could just comment on the standard request language that was suggested in 10, in this email is 10.5.

My concern here is that [inaudible] "may" at the end essentially allows for an unlimited time to response, which really makes it challenging for any compliance to happen here, such that a response time of greater than 30 days would not be unreasonable. As you know, I think we already ... Despite this language being in the policy, I believe that 30 days is already an unreasonable request.

This language seems to indicate, or you could interpret it in a way that 300-day response time would not be unreasonable. That doesn't sound reasonable to me.

I'm just thinking about is there a way to tighten that up a bit without ... That continues to give Compliance the ability to enforce compliance reasonably and doesn't allow a loophole where 300 days—and I'm using that as an extreme example—300 days response time somehow ends up being acceptable. You could imagine we've heard this from smart registrars that they have a single person processing these requests, and if there is a few that come in at the same time, then it may take quite a while to process these requests.

So, I don't know what the solution here is, but I'm just concerned that we've taken an unreasonable amount of time—30 days—and now allowed it to be even longer and more unreasonable. Thanks.

DENNIS CHANG: Chris, go ahead.

CHRIS LEWIS-EVANS: Yeah. Thanks, Dennis. With regards to ... Sorry, [inaudible] 10.5, 11.5 on the [inaudible] standard requests. I agree with Alex. Keeping it tight. And I think the language probably already covers some of the points that Matt raised there, already allows for the time to expand up to 30 days. I don't think we need to make it more [inaudible] on that, because realistically, it's just a receipt or acknowledgement of the request being made, so it shouldn't be difficult.

With regards to the urgent reasonable requests, I think in the OneDoc, we've got the 24 hours from receipt, which I know there's been a problem with from the contracted parties around how that would be done. I actually think if we sort of attach some of the language that Matt's had there around [inaudible] by two business days with no [tests]. I think that's really reasonable and I think for us is a compromise we could probably accept, keeping that [inaudible] of a 24-hour response is what we [gain].

And just reviewing this [inaudible] round. I don't know whether that's a change to the definition section because I think the definition of urgent reasonable request is already done in the OneDoc and I would rather stick to the language that's in the OneDoc and I think it's under 3.9.1. That's my only other point on that. Thanks.

DENNIS CHANG: Chris?

CHRIS LEWIS-EVANS: Yeah?

DENNIS CHANG: Do you want to speak again?

CHRIS LEWIS-EVANS: No.

DENNIS CHANG: Okay. Matthew?

MATTHEW CROSSMAN: Yeah. Thanks. I'm wondering if to address Alex's concerns about the unlimited nature of response time for the regular requests ... What if we again just use GDPR and data subject access requests as our guide? I think for data subject access requests, you have to respond within 30 days, but there is, again with notice, the ability to extend I think an additional 60 days.

So, what if we use the same sort of structure, that it's 30 but with ... Under exceptional circumstances, you may get up to an additional 60 days to respond. That way, this is not an unlimited period and we could build in some sort of notice piece as we have with the urgent requests.

But I think those data subject access request response timelines are a good guideline. I would like to in general be able to tell our customers

that the same sort of timelines that we applied to responding to their requests are what we applied to responding to third parties.

So, I think to the extent we can kind of align those, I think it's a useful and also sensible timeline to use.

DENNIS CHANG: Thank you, Matthew. Stephanie, go ahead.

STEPHANIE PERRIN: Thank you. I raised my hand because I wanted to know how you plan to accommodate Those who are on the EPDP will know that I have been noisy about this over the last, I don't know, seven years. Human rights defenders may be the subject of harassment by hostile governments [inaudible] have access requests coming in from different governments than their own. I can imagine that it might take a while to check out a requestor. This is not your average certification issue in terms of whether this is an I'm assuming the SSAD gets through and that there is some kind of a gate where governments are accredited or not, and I can't imagine them not being accredited.

So, if you take a case like that, how would you plan on responding? If you are going to do any kind of consultation, I can well imagine having done such consultation that it would take over 60 days.

Now, I get that you want a nice reasonable-sounding response time. I guess my question is how do you handle the edge cases?

One answer to that would be edge cases you can respond with that 60 days and say this is a complex case and we need more time. If that meets your threshold there for fitting in with the response time, I'm good with that. Thanks. I hope you understand what I'm on about.

Oh, and in response to the proposal to use subject access as the guide, I'm pretty leery about that because the subject access speak to the convenience of providing access to the subject's own documents. Remember, it's your customer or your ... In the case where it's not a commercial relationship, your citizen or your individual who has rights under the law. You're not talking about that here. You're talking about a potentially third party. You do not have the same obligation to respond within 30 or 60 days.

I do agree with Beth that it's a good baseline for reasonable time for the administrative action. Yes, it's reasonable for that. But the determination of disclosure could be more complex, which speaks to my earlier intervention. Thanks.

DENNIS CHANG:

Thank you, Stephanie. Beth, you have the floor.

BETH BACON:

Stephanie, I agree and I 100% see your point. You say it's an edge case, but quite frankly, I think it's just one of those complicated unfortunate cases that happen not all that infrequently.

However, in the effort to get a document out that many parties that have to abide by this can agree to simply to give some structure and

framework, I don't object to ... And again, we're not mirroring the process of data subject requests, but merely the reasonable expectation that you will respond. And I think that if we don't respond, if something is so complicated that we're saying, "Hey, after 30 days, we're going to need another 60 days to look at this." And then if those 60 days prove to not be enough because of such a situation as you're describing where it's complicated or can be harmful to the subject, quite frankly my response is probably going to say I don't have enough information, I'm not disclosing this to you. And that may be a terrible thing to say, and tipping my hand there. But if it's a hostile government or it's just simply I cannot determine who the requestor is, what the impact of the data subject is going to be, then I'm probably going to say no.

So, that's in my mind why that 90 days that mirrors, again, the timeline for a data subject request, because again, it will be a third party likely—is reasonable to me. And again, if it's a law enforcement request or something like that, something else, then it would be a different consideration or there may be different rules of the road that apply simply because of jurisdiction or location or those sorts of things, valid laws and regulations.

But as a baseline, for the bulk of requests, I would be comfortable with this. But I don't want you to think that we're not seeing your point and considering it. There are bad requests.

DENNIS CHANG:

Thank you, Beth. Lauren?

LAUREEN KAPIN:

Following up on Beth's remarks, for the reasons that Beth outlines in terms of if this is what I'll say is an edge case or a difficult case like the ones that Stephanie has remarked upon, if it's that complicated and the contracted party has the option of saying, "I'm going to deny this for now because I need more information," then my proposal would be not to make the response time more than twice of what the baseline is.

A baseline of 30 days, I might add, that includes everything other than urgent requests. So this would include your frauds and consumer protection issues. This will include malware, phishing, anything that doesn't get to the red zone where it falls into an urgent request is going to fall into this "everything else" category.

And as we've heard from Alex and others, 30 days, that's in the proposed policy so it's not up for further discussion. But yet there are views that that is still too long. So to triple that time, to me at least is unreasonable.

I suppose I could live with a doubling for these cases where you're slammed, so to speak. For example, I could certainly see a phishing or malware scenario generating a lot of requests and they may not be able to be fulfilled all at once. Then I would propose having that threshold be no more than extra 30 days, not tripling the time. That just really strikes me as unreasonable.

DENNIS CHANG:

Any other comments? Thank you for that discussion. So there's two discussions here. One is for the urgent requests and the other is a standard request. Let's look at that and see if we need to do something

more on these two, 11.5 and 11.6 sections. And using some of the language here that Matthew provided, [inaudible] again. And the conversation about 60 days, 90 days, that is the first time I am hearing this thing. I'm not sure how to incorporate that because we already said [inaudible] circumstances. I thought we included this to catch those edge cases and unusual circumstances. Sarah, go ahead.

SARAH WYLD: Thank you. Yes. I think some of the differences in the text are just related to when the proposal was sent in and the OneDoc has changed since then.

DENNIS CHANG: Ah, I see. I see.

SARAH WYLD: So, maybe what would help for next steps would be to—and I'm not sure what others think about this but to resolve the comments that are open in the section right now so it's fresh and then CPH members could make new comments to suggest what changes specifically we are suggesting there.

DENNIS CHANG: Yeah. I like that idea, Sarah. That will help me. Oh, my gosh. Thank you for that suggestion.

SARAH WYLD: Yeah.

DENNIS CHANG: Okay, let's do that. Sounds great, Sarah. Beth likes it, too. Okay, we'll do that.

Next item is one more item. This is retention period. Okay. Let's go to the retention period which was section 13. Oh, by the way, did we already mention ... Did I mention that appendices ... I assigned this as a task to you, so you can go ahead and look at that later I guess. We don't have to discuss it right now. But let's look at this item. Sarah, do you want to initiate this conversation?

SARAH WYLD: Sure. Thank you. I know that this is one that has been discussed already, but it has not been resolved and I'm still really not comfortable that the policy we've got here matches the recommendation. So what we see in the rec is that the transfer dispute resolution policy has the longest retention period, so registrars retain only those data elements necessary for the purposes of the TDRP. And then it tells the period is 15 months plus 3, so 18 months.

So, the timeframe, looking here, is good but it says registrars must retain all data collected and I'm just not sure that that is aligning with the recommendation and I'm not sure that it's necessary.

So, I think that ... And then as the comment also says in the document, I don't think it matches the GDPR requirements.

So, I would still propose that we should change that text to match the recommendation. Thank you.

DENNIS CHANG:

Any other comments on this? This is the one that we wrote a rationale document for you, right, to try to explain the [inaudible] language why we have it that way. I'll see if I can find it. We have [inaudible] for the 24-hour [inaudible]. Where did it go?

SARAH WYLD:

Line 94.

DENNIS CHANG:

94. Thank you. Okay. So, we went through this and I think we included, we noted your input and we provided your rationale and we had much discussions. Actually, we spent many hours discussing it online and in the meeting. But I don't think that there is anymore really to discuss because we understand your position and we need to I think go to the public comment as a next step because I don't think that we agree that the retention was meant to be for specific case of GDPR only.

So, that's the policy baseline language that we're going with. Again, if you have inputs on this, I think you have already made them here. But if you have other inputs, we'd be happy to take it. Is there anything new? We understand your position. Let's just say it that way. Sarah, go ahead.

SARAH WYLD:

Thank you, Dennis. I appreciate that you understand my position. The very bottom of the page that's on screen here I think has a couple of questions. So, the question one for the list of which data elements specifically require them, I'm not sure we ever saw that but they still think it would be helpful.

My other question is how will this disagreement be represented when it goes to public comment?

DENNIS CHANG:

Oh. Good segue. I want to tell you exactly how that would be done because we are preparing ... I don't know if you remember. We're preparing public comment document and that's where we ... I introduced this to you before, but we haven't been looking at it lately. Let me see. Where did I put it? Is it here? Maybe I put it in the reference. Public comment document. It's not jumping out at me. Let me see. Oh, I know. I can't find it right now.

What I was going to say is that we are preparing a public comment document that has all the mentions, all the lists of things that we are going to present on the public comment, including all the items that has diverging readings and things like that. I can find it. Okay. Here we go. I found it here.

This is our document that we're using. So, within this document, behind the scenes we have been working on it and research and studies ... Do not result in ... Addressed in policy ... Drafting error. Remember we found a few items that we agreed that they were drafting error? We're documenting that here. And disagreements.

So, this is where we intend to address the disagreement and will spell out the positions that you have and how that should be represented. So we are going to look for public comment on those and that's an opportunity for you and your constituencies to comment officially on it for us to look at it after the public comment together. Marc Anderson, go ahead.

MARC ANDERSON:

Thanks, Dennis. Sarah raised the data retention issue. You said you understand the position that IRT members are taking, that the data must only be retained for the purposes of TDRP, but you're disagreeing with that and asking if there's new information that will change that.

I do want to point out in the EPDP Phase 2 report, recommendation 21 very specifically confirms that. And I'm pasting in the text the EPDP team confirms its recommendation from Phase 1 that registrars must retain only those data elements deemed necessary for the purposes of TDRP. It goes on from there.

Not only have you heard from IRT members that that was the intent, the working group reconfirmed that in Phase 2.

DENNIS CHANG:

Interesting. That is news.

MARC ANDERSON:

I understand your position but I just want to point that out to you.

DENNIS CHANG: Thank you for pointing that out. The position that we were using is that TDRP was being used ... The way we read it, it was being used as an example. But if we did exactly that, how it would cause a problem later on. We have ... I think we documented where it would cause a problem that compliance-wise, [there will be things] leftover that we cannot cover. I think that was covered. But if it's not clear, then we'll have to make that clear. That is interesting. Okay. Which data elements do the registrar's deem necessary for the ... Yeah.

Well, TDRP policy does have the list already and that's what we pointed to before. Sarah, did you want to talk again? We have one minute left. Oh, I didn't know the time was so close to the end.

SARAH WYLD: No, sorry, I forgot. Old hand.

DENNIS CHANG: Okay. So, thank you. Let's close this down. So, I'll look at that or we'll look at that one more time. But it was pretty clear to us when we were looking at it that we could not implement it the way that you had interpreted and that would not make sense to me. But if the EPDP 2 team has reconfirmed, that would be an interesting thing to see because that final report is coming our way, too, for implementation as I understand. So, thank you very much, everyone. I'll see you at the ICANN 69 next. So keep in touch on the online. Bye now.

[END OF TRANSCRIPTION]