

YESIM NAZLAR:

Good morning, good afternoon, good evening to everyone. Welcome to the At-Large Consolidated Policy Working Group call taking place on Wednesday 3rd of March 2021 at 13:00 UTC.

We will not be doing a roll call due to the increased number of attendees as well as for the sake of time. However, all attendees both on the Zoom room and the phone bridge will be recorded after the call.

We have received apologies from Bill Jouris, Roberto Gaetano, and a tentative apology from Anne-Marie Joly Bachollet.

From staff's side, we have Heidi Ullrich, Evin Erdogan, Emily Barabas, and myself, Yesim Nazlar, and I'll also be doing call management for today's call.

Before we get started, just a kind reminder to please state your names, not only for the transcription but also for the interpretation purposes. As you all know, we have Spanish and French interpretation provided on today's call, and our Spanish interpreters are Claudia and Veronica, and our French interpreters are Isabelle and Jacques.

Before we get started, on final reminder is for the real-time transcription service which is provided on today's call, and I'm just going to share the link with you here on Zoom chat. Please do check the service. And with this, I would like to leave the floor back over to you, Olivier. Thanks so much.

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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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OLIVIER CRÉPIN-LEBLOND: Thank you very much, Yesim. I hope you can all hear me well. Today's call is going to be much of the same as previous calls, only a little bit different. Well, first we'll start with the GNSO policy development process working group for the review of the transfer policy presentation by Emily Barabas who's ICANN policy manager. She'll be taking us through this for about 20 minutes with some questions afterwards. Immediately afterwards, we'll have Jonathan Zuck speaking to us about the At-Large ICANN 70 talking points. ICANN 70 is just around the corner. It's arrived very fast indeed.

Then we'll have the working group updates with the EPDP being a key point. There is a presentation from Alan Greenberg and Hadia Elminiawi. I'm surprised not to actually find it on this part of the agenda. I thought it would be there. And then we'll have—Justine Chew is, I think, unlikely to be with us today. I'll have to check. But anyway, immediately afterwards, we'll have the policy comment updates.

First, I guess we will have the review of transfer policy section. Let's open the floor for any comments, questions, changes. I see Alan Greenberg has put his hand up.

ALAN GREENBERG: Thank you. I'm not sure if Hadia has any presentation. I know she has a few things to present on the EPDP. I do have a separate presentation NIS2, however, and it doesn't seem to be on the agenda, although Yesim did say it was posted. So I'm not quite sure what's going on there.

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OLIVIER CRÉPIN-LEBLOND: Yeah, it is, actually, further down in the policy section with Jonathan Zuck's—

ALAN GREENBERG: I see. That's fine. Sorry. It's still a bit early for me.

OLIVIER CRÉPIN-LEBLOND: I was also caught by this. I just mentioned it just a moment ago. I was looking for it earlier, and of course, it's in the second part of the agenda.

ALAN GREENBERG: Too much work to scroll all the way down. Thank you.

OLIVIER CRÉPIN-LEBLOND: Tired fingers. Let's go to Hadia Elminiawi.

HADIA ELMINIAWI: Thank you, Olivier. So I have just sent a [inaudible] of slides for today, it's a quick update about what we are discussing now. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thanks, Hadia. Staff will update this. Did you send it to the staff address?

HADIA ELMINIAWI: Yes, I did, Evin and staff.

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OLIVIER CRÉPIN-LEBLOND: Okay. Excellent. So hopefully, they should be able to pick it up by the time we reach that segment, it'll be both on the agenda and also they will be able to share it with everyone. Any other amendments or any comments on the agenda as it currently is?

I'm not seeing any hands up, so let's proceed forward with the agenda as it currently is on your screen, and we will then go for the action item. That's the next part. There were three action items that were actioned and are therefore completed, all relating to public consultations and to scheduling for this week.

So, it looks like we can swiftly move forward if there's a lot on the agenda today, as indeed Cheryl mentioned in the chat, we should be proceeding minutely with welcoming Emily Barabas from ICANN, and she will be able to speak to us about the final issue report on the policy development process to review the transfer policy, which I believe is the inter-registrar transfer policy. Over to you, Emily.

EMILY BARABAS: Hi everyone. This is Emily Barabas from policy support staff here today to speak to you a little bit about the new GNSO PDP that's coming soon.

So, I have a whole deck of slides here. I don't know how much detail is useful to this group, but please feel free, as I'm talking, to drop in the chat if you'd like more detail, less, questions and so forth. I'm here to support you all and to make sure that we focus on what interests you most. So with that, I'll start running through these slides and try to leave a little bit of time at the end for questions as well. Next slide, please.

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So a brief overview of what we'll be going over. First some background on this PDP and some of the history, an overview of the final issue report that was considered by council recently, what's included in that report, in case anyone is interested, it provides an overview of how it's structured and so forth, a look at the draft charter of this group that's now being finalized, and a look at what's happening right now and what will be happening next. Next slide, please.

A little bit about the transfer policy. This is ICANN consensus policy governing procedure and requirements that permit registrants to transfer their domain names from one registrar to another, also referred to as the inter-registrar transfer. The goal of this policy is to provide or enhance domain name portability resulting in greater consumer and business choice and enabling registrants to select the registrar that offers the best services and price for their needs.

So that's sort of the key takeaway of why is this policy important to registrants or to end users, actually, was I think the question that was asked at a high level for this presentation.

To the extent that end users are registrants, this policy seeks to allow registrants to switch registrars in a way that is secure and usable, accessible and so forth. So that's sort of an overarching look at why this may be important from the end user perspective.

So this policy was formerly called the inter-registrar transfer policy and originally went into effect in 2004. There was one review that took place so far of the policy that happened right after it was first implemented. So this would be a second review. Next slide, please.

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So a little bit about the issue report, how it came about. In April of 2019, ICANN Org produced something called the transfer policy status report to the GNSO council. This was something that a previous policy development process, the inter-registrar transfer policy part [D] PDP working group in their final report, they said that there should be data collected about the performance of the transfer policy that could be used to support future policy development. So ICANN Org produced that report. We'll go into a little more detail about what's in that report. But data was delivered to council and council agreed that a scoping team should be formed to look at some of the issues raised in that report. The scoping team produced a paper. That paper suggested that policy development should be done on the topic, and so council then requested a preliminary issue report produced by staff that went out for public comment in the fall, and a final issue report was produced by staff and delivered to council in January of this year, and in February, the council reviewed the report and voted to initiate a policy development process drawing on the work of the scoping team and the data from the transfer policy status report.

So that's why I'm here to talk to you today. There's a policy development process that has now been initiated but it hasn't been formed yet, and so outreach is happening on the staff side to make sure everyone understands what's in the PDP, why it's important to participate and what the opportunities are for engagement. Next slide, please.

So the issue report covers eight specific topics within the scope of the transfer policy, and I'll run through each of those briefly, but I'll focus on the first two because this will be a phased PDP, so there'll be multiple parts, and the first two topics will be the first ones covered. So those are

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most relevant when thinking about in the immediate future, bringing on volunteers who are interested in these issues. Next slide, please.

If you are interested in taking a look at the final issue report, I will drop the link in the chat, and in terms of structure, for each topic area, there's an overview of the issue, including previous work that's been done from a policy perspective, a summary of the various inputs and data that are available to support future work on the topic, so that includes from the policy status report things like survey data from registrars and registrants, metrics from the global support center, monthly registry reports, and data also from the contractual compliance department.

There are some inputs included from the Contracted Party House technical operations subcommittee, which has done some analysis on some of the issues within scope for this report. There's also some feedback from ICANN Org departments about issues that have been particularly challenging, for example for registrants where there's been a lot of complaints, so providing some context on the data as well as public comments that were received on the preliminary issue report. And then finally, there's a set of questions that can be considered by the PDP, and those are also included in the draft charter. Next slide, please.

Okay, so the first topic areas is about gaining and losing registrar form of authorization. So, going back a little bit in terms of history, before the Board adopted the temporary specification for gTLD registration data, the gaining registrar, so the registrar I think—well, I'll just go over the terminology just in case anyone needs a refresher.

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So when a registrant wants to switch from one registrar to another, the gaining registrar is the new registrar that the person is moving to, and the losing registrar is the one that they're leaving, essentially. So the gaining registrar in a transfer was required to get confirmation that the registrant did indeed intend to transfer the domain using something called the form of authorization.

The losing registrar was also required to send notice to the registrant, and that's called the losing registrar form of authorization, and the purpose of that form of authorization is really to ensure that it is indeed the intent of the registrant to transfer, that it's not a fraudulent transaction.

So under the temporary specification, if the gaining registrar was not able to send the gaining form of authorization because it couldn't obtain current registration data, then the gaining form of authorization would no longer be required, and there would be a process in which the registered name holder reentered the information with the gaining registrar and the auth info code, which we'll talk about in a minute, would be used to verify the identity of the registered name holder.

So the EPDP has this workaround in its recommendations, and those were adopted by the ICANN Board. Next slide, please. But registrars have identified challenges since that has gone into effect, noting that ICANN Org's position that a gaining registrar is required to send the gaining form of authorization where the e-mail address is available was not tenable from their perspective because there was no guarantee that the e-mail actually reaches the registrant.



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So in short, contractual compliance on this has been deferred pending further work, and so this is a priority issue related to the transfer policy because there needs to be work done to find a solution to the issue. And the Contracted Party House technical operations subcommittee has developed a proposal that could form a basis for discussion within the PDP. Next slide, please.

So, looking at the charter questions that will be the focus for this topic, is the requirement of a gaining form of authorization still needed? Are updates necessary? If that's not the case, does the auth info code provide a sufficient level of security and a sufficient paper trail?

In light of provisions of the temporary specification, what secure methods—if any—currently exist to allow secure transmission of then current registration data for a domain name, subject to an inter-registrar transfer request? There are also issues about domain name locking, whether the losing form of authorization is still required and whether the proposal discussed earlier is a good starting point for discussion. So I think this will be a big chunk of the initial work of this PDP, but there's a second topic as well that's part of that focus. Next slide, please.

And that's about auth info code management. So auth info codes are unique codes created by the registrar on a per domain basis to identify the registrant of the domain name, and providing an auth info code is required for the registrant to complete that transfer. The auth info code could be provided by a control panel in the registrar's portal, or through other means such as by e-mail, and there are a few questions about the auth info code for the PDP to consider, including whether it's still a secure method for transfers, whether—questions about who should be

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the authoritative holder of the auth info codes, the registrars of registries, whether the SLA is appropriate in terms of how long it is required for the auth info code to be provided by registrars, so that's the five calendar days, and whether there should be additional work around bulk use of auth info codes, so that's for transfers of large numbers of domain names. Next slide, please.

So I'm just looking at the time here and I'm realizing that in the interest of time, it may not make sense to go over the topics in all of the phases of the PDP. These slides will be available to everyone, and so you can certainly read through and see all of the topics, but I'm going to highlight just one more that will also be part of phase 1A. Yesim, if you don't mind scrolling down to—yes, thank you.

So another topic that will be scattered throughout the PDP is about the EPDP recommendation 27 wave one report. This was EPDP team's phase one final report included a recommendation 27 to update existing policies and procedures to make sure they're consistent with the EPDP's outputs, and that included an analysis of the transfer policy and the transfer dispute resolution policy. And so part of the work, including part of the work on the initial phase, will be looking at that report and thinking about the integration of the recommendations coming out of that analysis in the context of the transfer policy and the transfer dispute resolution policy. So that will include those related to form of authorization. Next slide, please.

So I want to very briefly touch on the draft charter. Right now, a small group of GNSO councilors is looking at the charter that was drafted by staff based on work of the scoping team. They're finalizing some of the

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language and reviewing it. Just the very high-level highlights of it, the scope of the PDP is to look at a full review of the transfer policy to determine if changes are needed to improve ease, security and efficacy of inter-registrar and inter-registrant transfers.

As I mentioned, there's two phases. The first phase is broken into two parts. First, form of authorization and auth info codes, then focus on change of registrant, and then the remaining topics at the end, that's transfer emergency action contact, reversing inter-registrar transfers, the transfer dispute resolution policy, denying or NACKing transfers, ICANN approved transfers.

So the idea there is to break this into smaller, manageable pieces so that the work can be kind of structured and supervised in an effective manner that's consistent with the PDP 3.0 work, which sort of attempts to make the policy development processes more effective and efficient. Next slide, please.

This is an overview of how it's anticipated that the work will go. So there will be three initial reports, one for phase 1A, one for phase 1B, and then a single final report for that first phase, a charter review and refresh if necessary, and then a phase two initial report and final report, and the idea is that the phase one work can go into implementation if it's passed by the council and Board, simultaneously with the phase two policy development work being completed. Next slide, please.

The intent here is to have a working group with a limited number of members following a representative model. The hope there is to ensure that the work can be completed in an efficient way while also ensuring

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that everyone who has an interest in a topic can be present and represented. So there will be members, alternates and observers, and the membership will include GNSO stakeholder groups and constituencies as well as a representative of SOs and ACs who are interested in putting forward members. Next slide, please.

This is the last slide. As I mentioned earlier, there's a small group of councilors who are finalizing the charter now, and the biggest question that's still outstanding is the exact composition of the working group. The GNSO chair reached out to all of the SGs and Cs, SOs and ACs to see what level of interest is out there in terms of participation, because this is a pretty specialized topic and not every group will be interested in putting forward volunteers or will be in a position to do so.

Once the charter has been completed, the GNSO council will adopt that charter. The hope is that that can happen at its meeting during ICANN 70, and then SOs, ACs, SGs and Cs will appoint members to the working group and then leadership will need to be selected for the working group before they can kick off.

So I'll stop there and I'm happy to answer questions. I already see that Jonathan has his hand up, so let's start there. Thanks.

JONATHAN ZUCK:

Hi Emily. Thanks for the presentation. This is a great overview of the process that's in front of us and the questions that are being asked, but in terms of understanding the stakes in order to make an assessment about whether or not it's a working group in which we should get engaged, are there findings in the issue report that are alarming or

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driving this, or is it more a question of it's time to look at this again? Are there any statistics that came out of the issue report that would suggest that there's an element of urgency to this review because problems have been identified, higher than normal mis-transferred domains or domain stealing? What's driving this, and are there findings in that issue report that might interest us and motivate us to participate?

EMILY BARABAS:

Hi Jonathan. Thanks, that's a great question. And I did neglect to mention that there's actually a presentation coming up at ICANN 70 where there will be presentations sort of talking a little bit more about some of the issues and why they're relevant to different groups and why they might be interested in participating.

I'm joining you on a little bit of a short notice so I wasn't able to prepare anything too formal on that, but you're all welcome and encouraged to participate in that session. and of course, ask questions afterwards. But I think that will provide a bit more detail on what you're looking for. But I can say in terms of the council's discussions about why to initiate a policy development process now, I think there's a few things to highlight. One is that there's a couple of situations where there are rules in place, and because there is either a lack of clarity or an untenable situation, compliance has been deferred and there really needs to be a fresh look at the rules to see, for example, when we're talking about form of authorization, exactly how that's going to work in light of what came out of the temporary specification. So that's sort of a place where something in the system isn't working and it needs a fresh look from a policy perspective.

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So I think that was one of the drivers. I think another driver is this hasn't been looked at holistically in a while, this policy, the technology landscape has changed. The data did show that there are potentially some open questions about things like usability and how people are or how contracted parties are using the policy in practice versus perhaps what was intended. So an example of that would be the designated agent, which is sort of an entity within the contracted party that's being authorized to act on behalf of the registrant and in practice, that way that's being used is perhaps not consistent with what was intended and there have been perhaps some unintended consequences of that that have shown up in the data.

There's questions around the 60-day lock of domain names and usability issues and concerns about whether that's working as intended. There's questions about in light of new data protection law, is domain name hijacking at the same level of urgency that it was previously, and are some of the rules still useful and necessary in light of that?

So I think there are a bunch of sort of big questions that the data points to, and then as I said, these sort of more time sensitive issues where there's a temporary solution but there really needs to be a policy solution. So in light of all of those things, I think the GNSO council felt that it was an appropriate time to look at the policy as a whole and really think about where there's areas for improvement. Does that answer your question?

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JONATHAN ZUCK:

Thanks, Emily. Kind of. I just would have loved to see if there was a statistic on increasing complaints from users facing delays associated with changing registrars or a statistic associated with domain hijacking. I feel like we're still talking around the data. But presumably, it's in the issue report that's helping to drive some of this, that you said things are not being used as they're intended. There are implications to that. What are those implications? I guess that would be trying to drive into as those representing end users, is this a procedural thing where Contracted Party House is concerned that it's too onerous and they need to find a way to streamline it in an EPDP, or is it something where there's been an implication for registrants that is because of how it's being used, it's driving a revisiting of this and a delay of compliance having a material impact on registrants? Does that make sense?

EMILY BARABAS:

Yeah. It does. So I think the primary reason is about this issue of deferred contractual enforcement and the fact that the IRTP Part D sort of said that a review would be necessary after a period of time to see if this has been effective. But I think there are still issues that are relevant and important to registrants, and I think what we can do is take that away as a sort of action item from the staff side to dig into that data a little bit and try to make it perhaps a bit more digestible in the ICANN 70 presentation so that At-Large and some of the other groups that are interested in looking at this from a registrant perspective can make a better assessment about whether it's relevant for them to put forward participation, members for participation in the group. Would that be perhaps a good next step and also in the interest of time on this call?

JONATHAN ZUCK: Yes, a great next step. And also, I guess, is the timing such that we can wait until after ICANN 70 to decide whether to put forward volunteers for the working group?

EMILY BARABAS: Yeah. I think looking at the fact that the charter has not been approved yet, which is the necessary next step before the group can actually formed, I think it should be okay from a timing perspective to make that decision kind of following ICANN 70? Because I don't think that the charter—well, the charter will not be approved before ICANN 70.

JONATHAN ZUCK: Thanks.

EMILY BARABAS: Sure.

JONATHAN ZUCK: Chokri, go ahead,

CHOKRI BEN ROMDHANE: Thank you. I have a specific question. I have [inaudible] the case of .org and transaction of [inaudible] from [inaudible] to another firm. Would such case be included in transfer policy, or dispute policy? If so, could we derive any link between these two policy [inaudible] or interference



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between these two policies? Because in my opinion, I think that if we have any interference between these two policies, it would be better to make only one and avoid this, avoid to have two policies, and in some cases, it will be difficult for a user or a registrant to distinguish which policy he will address.

Another issue, I think that policies should itself help to give decision or to make decision. In our case, by looking to some slide that's presented by Emily, I think that all the policy, all the transfer policy is based on a Board resolution. So in some case, we are not able to make decision based on this policy. We are only to have—go through Board and have a look at its opinion. Thank you.

EMILY BARABAS: Hi. I'm sorry, the first part of the question was about the intersection between the transfer policy, and I'm sorry, which other policy?

CHOKRI BEN ROMDHANE: And the transfer dispute.

EMILY BARABAS: Yes. so the transfer dispute resolution policy is actually one of the topics that will be included in the review of the transfer policy PDP, and so that will be one element of the bigger picture that will be examined within this PDP. It's just I didn't go into any detail because it won't be in the first phase and in the interest of time, I didn't go through every topic. The review of the UDRP will be part of the overall review and there's some data to support that analysis as well.

CHOKRI BEN ROMDHANE: So for the specific case of the transfer of .org domain name, do you consider this as a dispute policy or transfer policy?

EMILY BARABAS: The TDRP, the transfer dispute resolution policy specifically addresses the processes and procedures and rules for handling disputes related to the transfer policy whereas the transfer policy has a set of broader provisions that govern the transfers themselves. Does that answer the question?

CHOKRI BEN ROMDHANE: Yes. Thank you, Emily. For the second question, it's not clear.

JONATHAN ZUCK: Chokri, are you talking about the possible acquisition of .org that almost happened?

CHOKRI BEN ROMDHANE: Yes.

JONATHAN ZUCK: Yeah, this is more about the transfer of a single registration from one registrar to another registrar. It's not about the transfer of a domain from one registry to another registry.

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CHOKRI BEN ROMDHANE: Okay. Thank you. So for the second question, it's clear, or should I repeat the question?

JONATHAN ZUCK: I guess repeat your second question. Thanks.

CHOKRI BEN ROMDHANE: Okay. In my opinion, the policy should help to make decision immediately and to give argument to decision to have a decision. So if all the policy will be based on Board resolution and Board opinion, it will make very hard to make decision without the Board intervention.

So in my opinion, I think it's the case of the transfer policy, which is always based on Board resolution and make—I think it will be a handicap for decision maker to make decision without the decision of the Board.

EMILY BARABAS: Thanks for this question, Chokri. So I think this PDP will follow sort of a standard GNSO policy development process, which is that the working group will come to a set of recommendations, those recommendations will be considered and potentially adopted by the GNSO council, and then the Board will have an opportunity to consider and vote on those policies. So the Board will have a very important role to play at the end of that PDP. Does that answer the question that was asked? I see Cheryl has her hands up, so she might want to weigh in as well. Thanks.

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CHERYL LANGDON-ORR: Chokri, did that answer your question?

CHOKRI BEN ROMDHANE: Sorry, Cheryl.

CHERYL LANGDON-ORR: Did Emily's response answer your question [as to the role of the Board?]

CHOKRI BEN ROMDHANE: I'm not speaking about the role of the Board in the policy development process, I'm speaking about the role of the Board when we are going to [run] this policy.

CHERYL LANGDON-ORR: Chokri, what's important is when the Board adopts with its level of acceptance of a report from the GNSO council, then it no longer has a day-to-day operational involvement in implementing that policy, unless of course there is a major issue raised and some form of intervention is required because of the security and stability or that type of [inaudible] issue. So once the Board approves the policy, as Alan said, under the bylaws and the description is all there—which I know you understand—then there is no day-to-day influence.

However, contractual compliance—which is an ICANN Org activity—is obviously deeply involved in managing any complaints or issues or failure to run under the policy as it is or was currently written. But this process that Emily has introduced to us today is both a regular review

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point of existing policy that has been recommended, and a timely review point of the existing policies because a lot has changed in mechanisms and activities of what happens in that registry process, technology has changed—as I know she mentioned—and indeed, the nature of what data is available to all parties to use and how it may or may not end up getting to the intended recipient of a message is suddenly different because of recent issues raised and decisions proposed out of the expedited policy development process.

I hope that might answer some of the questions raised. May not result in your second question, unfortunately, but we're not in a position to change the process, which I know you understand.

With this work, however, a lot of the data, the survey data—Emily, did you have a slide on that, the results of the survey? What was it, 29 responses? Details are evading me at the moment. A lot of it, however, if Emily doesn't have a slide, was if my memory serves, very anecdotal. How good was your experience? Was it easy to transfer your domain name? Was it hard to transfer your domain name? It's very that sort of thing.

So it was a sort of, "how good an experience was it" type survey. And so that's the data points that have been looked at, I believe, and that's the sort of details that the issues report will go in.

While I've got the microphone, however, I think that this topic is one that I'll be putting a pin in to say that especially under the policy development process 3.0 and the fact that we've been told that this is likely to be a representative model of policy development process where

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there will be formal representatives and backups and standby people to step in if there's an issue with the formal representatives of the At-Large Advisory Committee and that other people can be observers, in other words, it will emulate the design of what has happened in EPDP, I think the work of this group, the CPWG, will be essential to assist the voice of the wider At-Large community to come into this process because it's an awful lot just to put on the hearts and minds of two people and two backups. Thank you.

CHOKRI BEN ROMDHANE: Thank you, Cheryl.

JONATHAN ZUCK: All right, Emily, thanks a lot for your presentation. I think you probably move on to the next agenda, but thanks for joining the call.

EMILY BARABAS: Thanks for your time, Jonathan and everyone. I'm available over e-mail as well if you have follow-up questions later on. I'll just drop my e-mail in the chat. Thanks.

JONATHAN ZUCK: Thanks.

OLIVIER CRÉPIN-LEBLOND: Thank you. The next part of our agenda is item four with Jonathan Zuck and Evin Erdogan about the At-Large ICANN 70 talking points.

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JONATHAN ZUCK:

Thanks, Olivier. With each meeting, what we try to do is look at the schedule for the meeting when it comes out to see what kinds of conversations are going to be had and sessions that our At-Large volunteers might be trying to cover and then produce a quick document about those issues in particular and kind of where we stand on those issues. So we have a draft of this talking points document, and rather than going over it in detail now—we can do that later—what I'd love is for folks to take a look at the Google doc on your own time and make comments and others—for changes or clarifications you'd like to see prior to this document being disseminated and presented during prep week for ICANN 70. So we don't need to spend a lot of time on this now. I think the key here is just to point you to the Google doc and have you take a look and see if it makes sense or if there's things you think we're leaving out altogether like things that we ought to be adding talking points for or if there are talking points in there that seem contradictory or unnecessary, etc., just any comments that you have, this next week would be a good time to spend some time on that.

Any questions about that? All right, I'll go back to you, Olivier. We've got a big agenda as well.

OLIVIER CRÉPIN-LEBLOND:

Yes. Thanks very much. And so I guess next week, we'll probably have to focus a little more on that. But yes, please, everyone have a look at the Google doc. Jonathan, it's comment only at the moment. If people have

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comments, how should they comment on this? They're able to comment directly on the document, is that what it means by comment only?

JONATHAN ZUCK: Yeah, that's right. You can highlight text and comment on it in the margin.

OLIVIER CRÉPIN-LEBLOND: Okay. Perfect. Thanks. Now, agenda item five is the working group updates, and we will start with Yrjö Lansipuro and Carlos Raúl Gutiérrez—I believe Yrjö is on the call—to speak to us about the IGO Work Track. Has there been any movement since last week?

YRJÖ LANSIPURO: Well, a little bit. Thank you. This work track, as you know, it has a very narrow focus. It's about fixing one recommendation of the PDP on access to curative rights protection mechanisms for the intergovernmental organizations. And that's recommendation 5, which the GNSO council did accept.

It's about a situation where an intergovernmental organization wins a UDRP or URS and claims immunity when the losing side wants to go to court.

Now, we're discussing this and it seems that arbitration is seen by many members as the preferred option in that case instead of court action.



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The other thing is that the Work Track also will request GNSO to be allowed to touch another recommendation, that is to say, recommendation two which is about standing of intergovernmental organizations to start a dispute resolution process in the first place.

But the work continues. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Yrjö. Are there any questions or comments on the IGO Work Track? I'm not seeing any hands up at the moment. We're still in very early days. So, thank you. Next is the expedited PDP, and here, Hadia Elminiawi has a deck of slides to take us through to let us know about the progress in phase 2A. Hadia, you have the floor.

HADIA ELMINIAWI: Thank you so much, Olivier. This is a quick update. We will review the timeline and then the proposed scenario for legal versus natural differentiation, and then a question that the group had posed to ICANN Org in relation to its liability in case the differentiation between the data of a natural and legal person is mandatory. Next slide, please.

Quickly, the timeline shows that the target date for the delivery of the initial report is the 31st of May, and the target date for the submission of the final report is the 28th of June, after which of course it still needs to go to the GNSO Board's consideration and then we will typically have the public comment period along with the Board consideration. Next slide, please.

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So this is actually the proposed scenario. So, if a registrant is registering a new domain name or renewing an existing domain name or during a [inaudible] registration data confirmation, the registrar would typically ask the registrant—so that would be option, as it is now, it's an option. The registrar would notify the registrant of the option to identify oneself as either a natural person or a legal entity, and explain in a user friendly language what both terms mean and the consequences of this self-identification.

And according to the registrant's choice—so the choice would be either to identify as a natural person or a legal person. If a registrant identifies itself that the registration concerns a natural person, then there would be no publication to the data, and the disclosure of data would be according to the recommendations of phase one and phase two.

If the registrant [says] that the registration concerns a legal person, then the registrar would provide information about what this choice means and ask the registrant to confirm that the data does not include any personal information or personal data.

So if the registrant indicates that the data includes personal data, then again, there is no publication, and a disclosure is in accordance to the recommendations of phase one and phase two.

If the registrant indicates that there's no personal data in there, then the registrar will start to verify this designation and this could be [inaudible] for example requiring a corporate ID leveraging existing know your customer procedures, screening the e-mails for personal info, or using a third-party provider to verify the designation. So those are all possible

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ways of verification, and if the registrar verifies that there is no personal information, then this data is published. So basically, this is the scenario that we are currently discussing. Next slide, please.

This is about a question that was posed to ICANN about ICANN's liability in case differentiation between the data of legal and natural persons is mandatory. So the answer is it is not clear whether it's a consensus policy requirement alone and absent ICANN's actual involvement in processing under any such policy would make ICANN a controller for this process. The answer also says that ICANN lacks actual influence on the processing and that adherence to community-based policies should not per se lead to a general controllership assumption [of both the members] and the organization, and they say that ICANN continues to seek clarify in this regard.

So this is what I have for today, and I'll leave the floor to Alan, and of course, to any questions. Thank you.

OLIVIER CRÉPIN-LEBLOND: Alan Greenberg.

ALAN GREENBERG: Thank you. I don't have much to add. The only thing I'll add is there seems to be significant concern among contracted parties that information provided by a legal person may contain natural person information.

I'll give you an example. An e-mail address which looks like it is a generic one, domainmanager@something, could be your personal e-mail

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address. And there's no way to tell just by looking at it. So I have a concern that in the interest of ensuring that they never provide any contact information that might be the contact information of an individual natural person, that everything will have to be redacted.

And I don't know how to get around this, and I'll be discussing it a little bit more on my next presentation, but it's one of the critical issues going forward. We've been told we can't rely on the assurance of the legal person that they're not providing natural person information, but we seem to be in a catch 22, and I'm not quite sure how we're going to get past that one.

The rest of the world seems to have addressed it, but because of the desire for no liability in our contracted parties—which is not an unreasonable position for them to take—I don't see how we're going to get past this one. So it's problematic. Thank you.

OLIVIER CRÉPIN-LEBLOND: Hadia Elminiawi.

HADIA ELMINIAWI: So I totally agree with what Alan just said, and to give an example, if you say for example you have an email that says domains@example.com and that example.com is a big institute, then definitely, that e-mail is not personal information. But again, you can have this same e-mail for a company with one person, then that e-mail would be actually sort of personal information. And again, we are trying to—as Alan said, I also don't see a way around such situations.

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However, I think what we need to look at is what GDPR and the new regulations actually intend with that and look at the intention of the laws and the regulations more than—and the reason I'm saying that is that for example, you find RIPE NCC publishing the data, and this is because based on 6.1(f) and because they concluded that the rights of the third parties or those in need of this data actually overrides that of the data subject.

And you see also EURid doing the same and publishing the e-mail address of the natural and legal persons' information based also on some EU regulation.

So what we can understand from that, that actually publishing such data is in line with the purpose of the directory and in that case, most probably, the benefits to the public overwrites that of the data subjects.

But because we are not trying to look from that point of view, we keep on struggling with every matter like that. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you, Hadia. I slot myself in the queue and I'll continue with the rest of the queue. I just have a quick question here. I'm just baffled as to what we are talking about here with respect to having personal identification of names in an e-mail address when companies are in general registered, there is a public register of who the directors are of various functions and various departments—this is—we're talking here about companies at a corporate level, and even small companies are registered, and there's a public register that provides a lot more details

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than any of this stuff which the working group seems to be having problems with.

I don't know. It's strange. I'll go back to Alan Greenberg. I'm just baffled. Alan, you have the floor.

ALAN GREENBERG:

Thank you, Olivier. There really isn't a problem that you describe, and the reason is those things are published because a law says they must. And there are provisions under GDPR [that say] if you have to comply with a law, you comply with a law. So that's not an issue.

Now, why is the law allowed? Because when a law is drafted, they do a balance test to say, is the good worth releasing some information which would be otherwise considered to be personal information and not released? They do that. That's the same thing that EURid for .eu and RIPE NCC have done. They said, "Is there a public good? Yes, we believe there is. We will publish the information." That's an inherent critical part of GDPR and virtually any privacy legislation.

The difference in our case is we, ICANN Org—or rather, ICANN through the ICANN Board—is making a policy which would then have to be adhered to and the liabilities accrued to the registrars and registries.

So RIPE makes a decision to publish information, and if RIPE blows it, then RIPE gets sued or gets penalties assessed against it. The same with .eu. In our case, we make the decision and the registrars or registries would have to pay the fines if there were any.

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Now, we're claiming that in fact, you will not see a lot of fines because these are reasonable decisions and they could be defended, but that's their concern. So it's because we have this double-prong system where one group makes a decision and another group has to pay the price of it that we have a problem, and there's no law saying you must.

Now, the NIS initiative which we'll be talking about later would in fact end up creating laws that say they must do it, and then there's a question of how can they do it and raise the issue I raised, but then they no longer have to do a balance test. It's invoking a different section of GDPR that says they're doing it because they're complying with the law as opposed to doing it because they judge that it's in the public interest. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thanks very much, Alan. Next is Lutz Donnerhacke.

LUTZ DONNERHACKE: I'd like to reiterate this point on the GDPR. There is no reason in the GDPR to saying you must not publish any data or you must not collect any data. You can do this, but you have to have a reason for it and you have to say this reason beforehand, before collecting data, you have to publish the reason why you are doing so.

And if you publish or collect the data, you have a reason to publish it. It does not need to be a lawful reason. For instance, for RIPE NCC or for registry companies, they have a law that you have to collect and publish this data.

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If we do want to do this in ICANN, we need valid reasons to do it, a reasoning why it's reasonable to do this. And if you do this, there's no problem with the GDPR. That's the main point, you can do anything as long as you have a reason for it, and you publish it so that you [can't] be sued for this reasoning, and this is the way it works. It doesn't say it's forbidden at all, it says you have to think before doing that data collection and data publishing. Think and then do. Thanks.

OLIVIER CRÉPIN-LEBLOND: Thanks very much for this, Lutz. I'm not seeing any other hands up. Is there anything else, Alan and Hadia, on the expedited PDP, or can we move forward? I know we'll come back to you on the NIS directive.

ALAN GREENBERG: I'm done.

OLIVIER CRÉPIN-LEBLOND: Okay. Thanks.

HADIA ELMINIAWI: I'm done too. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you for your update. We are a little bit late. Let's move on to the subsequent procedures with Justine Chew.



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JUSTINE CHEW: I didn't have anything to add. I just [inaudible] that I didn't have anything new to report, but just to say that the provisional ALAC advice has been updated with edits that addresses what we discussed last week on SAC 114, and those edits are highlighted in yellow in the Google doc. That's it.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Justine. So we're just looking at the ones in yellow, as you said, so the one here is for upholding ICANN's mission. I guess that's one of them. Is there any other paragraph, or is that the only one, Justine?

JUSTINE CHEW: There's more than one paragraph highlighted in yellow, because we spoke about at least seven items last week.

OLIVIER CRÉPIN-LEBLOND: Yeah. Thanks very much for this, Justine. We'll let people go through this in their own time. Thanks for updating us on that. And now we have to move swiftly to the policy comment updates with Jonathan Zuck and Evin Erdogdu. I'm sorry, just before that, I note that Christopher Wilkinson has his hand up, so I wanted to leave the floor for him, then we'll move to the policy comment updates. Christopher, you have the floor.

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CHRISTOPHER WILKINSON: Thank you very much. Two points. First of all, the ALAC advice is exceedingly timely, but I think it's increasingly overdue, because the subgroup has a subgroup which is spending a lot of time answering questions posed by the ICANN Board six months ago. And a number of the points that are made in the provisional ALAC opinion relate to these matters, and others are far more important than anything that the Board raised six months ago. So I would really encourage ALAC to draw this to a conclusion and make sure that the Board, and for that matter the subgroup has early access to the ALAC advice.

On a more personal point, there's a paragraph earlier on in the advice which sounds as if it is endorsing the 2012 guidebook as a consensus document. I think personally, I disagree with that very strongly. What we've done by endorsing the 2012 is to confirm the introduction of what I regard as an extremely strong bias against new stakeholders' interests in the new gTLD program during the intervening decade. But my main point for practical purposes today is that somehow or other, ALAC should be encouraged to get on with it. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thank you, Christopher. Justine Chew.

JUSTINE CHEW: Yes. I'd like to respond to Christopher's comments. Firstly, in terms of timelines, I've repeatedly said that this is now advice we're drafting to the Board, and the timeliness of it is subject to when the subsequent procedures final report recommendations are submitted to the Board by the GNSO council. I'm not sure whether that has happened. I think

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Cheryl can provide an answer to that, but in the interim, we have only just looked at advice from SSAC and we had opportunity to incorporate that into our provisional ALAC advice.

We have also given an opportunity to GAC to see if they want to provide anything for us to consider, including into our ALAC advice. So I don't think it's imperative that this goes to the ICANN Board immediately. I think there's still time. The Board isn't going to consider the SubPro PDP report for some time still, so as long as we get our advice in before then, we should be fine.

And in terms of your second comment, Christopher, about endorsing the AGB 2012, I don't believe that is the case. I would invite you to point out on the Google doc itself where you see that and raise a comment, and we can address it from there. Thank you.

CHRISTOPHER WILKINSON: Okay. Thank you, Justine.

OLIVIER CRÉPIN-LEBLOND: Thank you, Justine. Cheryl Langdon-Orr. Yeah, Christopher, I'm a little concerned of the time that we have at the moment because we've got a pressing second set of policy discussions to do, so that's why I'm trying to press on. Cheryl.

CHERYL LANGDON-ORR: Thank you, Olivier. Just to respond to Justine, as you all know, whilst the GNSO council has done its resolutions and has accepted the final report,

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and we've gone through that previously, there is a document prepared by staff which comes back to the GNSO council and it is that overview document that will be going to the ICANN Board along with the report in general. That document is not as yet on the draft agenda for the next GNSO council meeting, but I believe it is possible that it will be, and if not, it will be done in short order after that. So that is a pending document. It hasn't gone to the Board yet. So the timeliness of what this advice development is is not at risk at all at this stage. Thank you.

OLIVIER CRÉPIN-LEBLOND: Thanks for this information, Cheryl. And Christopher, I hope this eases your concerns.

CHRISTOPHER WILKINSON: Yes, considerably. Thank you.

OLIVIER CRÉPIN-LEBLOND: Okay. Thank you. Now, we need to move on. So the next part is the policy comment updates with Evin Erdogan and with Jonathan Zuck. You have the floor.

EVIN ERDOGDU: Thank you, Olivier. I'll just be brief as we have a few more minutes and Alan's presentation coming up as well. There are no recently ratified by the ALAC, but there are several upcoming public comment proceedings, including six in March. So please take a look there.

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Currently no public comment for decision, and of course, several current statements being developed, including the ALAC advice on subsequent procedures which we've just mentioned, EPDP phase two policy recommendations which closes at the end of this month as well as the statement on the second security, stability and resiliency review team final report, and that deadline was just extended to April.

So with that, I'll turn it over to Alan, who's presenting on the recent presentation and follow-up to the EU directive on security of network and information systems, or NIS2. I think the presentation is on the agenda, and there's also a link to Elena Plexida's follow-up blog on the topic. So I'll share that in the chat. So with that, over to you, Alan. Thank you.

ALAN GREENBERG:

Thank you very much. Next slide, please. First, a little comment. Again, we're talking about a proposal, so just to be clear, this has to go through the European Commission and European Parliament and then has to be ratified or essentially national laws have to be made by all of the national countries involved. So this is a long process that we're expecting to probably take about three years. Next slide, please.

We noted last time that it was a marathon four-and-a-half-hour session. It turns out it was actually a two-and-a-half-hour session, scheduled for two and a half hours with the agenda just over two hours. The four and a half hours turned out to be a meeting invitation error that the invitations went out, the calendar invites went out for four and a half

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hours, but that turned out to be an error. So the meeting was a long meeting, but not unreasonably slow.

It was a very interesting meeting. The people who presented knew what they were talking about, with one or two exceptions where they were a little bit weak. They know who ICANN is, they know what we do, and they understand, I think to some extent, the processes. I don't think they understand all of the details. I'll make that clearer as we go through it.

There were a number of interesting outcomes that I got out of the webinar that I hadn't realized. The first one is there's a scope article two which I had skipped over and it turns out to be really critical. What it says is that the regulations will not apply to small- and micro-sized enterprises or organizations. And small and micro are defined as less than 50 or less than 10 employees.

Now, there is an explicit exemption for TLD registries and DNS service providers, but there is no exemption for registrars. And there are many registrar operations that are in that size range, and moreover, one of the reasons that the registrar community has pushed back on some initiatives that we had been proposing was these are very small organizations that don't have a lot of staff. So they themselves have said we're talking about organizations in many cases that would fall through the cracks, so none of this would apply. So that's a really critical issue that came out.

Another one that came out—and I have to go back to the presentation because I'm not quite sure if it came out under the applicability or under

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penalties, and I need to check. But in one case, one of the presenters said, oh well, registrars are covered because registrars normally run a DNS server, which is run by many registrars for convenience of their customers. They don't have to, and some registrars don't run them. But to say that the whole registrars include it just because of a small ancillary voluntary thing that they might do is really ludicrous. And that's a little bit scary.

It's clear that the EU people believe that accuracy is not just for the data subject, but that's not what many people in ICANN believe, and somehow we have to fix that and I don't know whether it's through NIS2 or something else, but that's really critical.

And the last point I'll make is one that hadn't come through to me, but the intent of putting these regulations into law within the countries is to move which article of the GDPR applies and deciding to release information, and it removes it from making a decision on is there a legitimate interest to balance the privacy rights, or is it because you're simply obeying the law? And to move it to obeying the law makes it far more interesting.

It's relevant in another way, that one of the discussion we had during phase two of the EPDP was whether you can even look at a registrant's data which is processing in order to decide whether to release, and we made the case that in some cases, you should simply release it because of the reasons that are given for requiring the data, and the registrars said, no, that's processing, and if it's processing, we can't do it unless we've gone through some other steps.

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And the presenters made it very clear and the NIS makes it very clear that the law says you must look at the data to process it. You are not violating people's rights and processing data in deciding whether to release it or whether to give it out under some circumstances. So it was a really good presentation, very technical in many cases, but I found it very useful. Next slide, please.

Okay. What I've done is written some notes. Now, clearly, any document the ALAC submits to the European Commission is going to have a lot more words and be a lot more flowery than what I'm talking about here. But these are the main points I think that we want to do, and what I would like out of this group is agreement that these are reasonable things to say, and at that point, I will draft a document for further consideration.

The first one is the directive applies to gTLD registries regardless of size. It must also apply to those involved in registration of domain names. So the size one is really critical. Next slide, please.

Article 23.1 talks about TLD registries and entities providing registration services and in one of the recitals, they add parenthetically the so called registrars. I believe it is critical that we call out the other entities that are involved in the process that we know about, and specifically registrars, privacy proxy services, resellers.

Now, the European Commission people said, "Well, it's not an exhaustive list so we don't want to provide a list," but I think it's really critical that they provide a list of those that we know are involved. It may not be an exhaustive list, but we have to call them out because



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otherwise, we know that it's going to be difficult, and even more so for resellers. Nobody really knows who all the resellers are. Even a registrar doesn't know who their resellers are because they know who the ones are that they are dealing with, but resellers can be nested many deep, so resellers can have resellers and those resellers are going to have resellers. And there's no records kept in any central place, and yet those are the people that are collecting the data, and collecting the data is a critical part of this, because only the collector of data can really verify that it's correct at some level.

And moreover, not mentioning the registrars, which is where the data resides currently in most cases, is really critical, because you're putting a responsibility on the registries which they don't have. Next slide, please.

This one talks about the points of contact administering the domain names. Now, when you look at privacy proxy providers, and particularly privacy proxy providers which hide the name of the entity registering it, even if it's a legal entity, we have a real problem.

And the problem is the registrar of record, the registrant of record. That is, who is the registrant from ICANN's point of view? Is the proxy service? What I call the beneficial registrant, that is, the entity that's actually using the domain name and has initiated the request to register the domain name doesn't show up anywhere, and yet that's really the critical part that we need. So we need to make sure that privacy proxy providers have the same responsibilities of providing information and contact with the beneficial registrant as registrars do for the registrant of record. Next slide, please.

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Okay, this is the one on privacy. On accuracy—and again, we need clarify that accuracy is not the function of the data subject being satisfied but it must be accurate to actually allow contact. That’s implied in the NIS articles, but it’s not explicitly said, and I believe it needs to be explicitly said. Next slide, please.

And this is the one where there are two clauses which talk about without undue delay. One is to publish certain information immediately after the registration is done, and the other one is to provide access to redacted information without undue delay.

Now, undue delay is very much in the mind of the beholder, and although it is really difficult to assign actual times to these because of varying conditions, the problem is that our contracted parties have viewed undue delay in a very different sense than the requestors have. Specifically if you look at the phase two EPDP recommendations, once we go into a steady state with the SSAD, the amount of time for non-rush requests—ones that don't involve life and limb and ones that don't satisfy a very tight threshold for priority, we're saying that the target—and I'll define target in a minute—time to respond is ten days.

And the target is the mean time that’s measured at the end of every measurement period, let’s say every month or every week. So we’re saying the mean time, the average time is ten days, and therefore some will clearly be responded to quickly and some may take as long as 20 or 30 days.

That’s not undue delay by most standards that I would consider, so I think we’re going to need more specificity and somehow to make sure

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that the times are more reasonable. And I think there may be one more slide. Or not. Yes, there is one more.

This one I don't think we're going to comment on, but just a note to the people here, the whereas says anyone is responsible for following these directives if they run a recursive resolver. My understanding is pretty much every computer in the world that connects to the Internet runs a recursive resolver somewhere in it. So the wording is just a little bit general, and could be construed as every individual pretty much in the world is—and certainly those in the EU are—subject to these rules.

And the rules include you have to name a representative who we can contact within a certain amount of time to resolve issues with your particular part of the DNS. So I suspect—I don't think anyone would try to enforce that, but it's an interesting result of the wording within the proposal.

And that's all I have. So the question is, does that seem like a reasonable basis on which to make our comments to the European Commission? And I will turn it back over to Olivier.

OLIVIER CRÉPIN-LEBLOND: Thanks, Alan. I think it's Jonathan that runs this part of the call.

ALAN GREENBERG: I'll turn it back over to Jonathan then.

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JONATHAN ZUCK: Yeah. Thanks, Alan. Thanks, Olivier. Let's go to the queue. Marita, go ahead.

MARITA MOLL: Thanks, Alan. I attended those sessions too, and you got some pretty detailed stuff out of it. I didn't get any notes quite as detailed as that. What did impress me, though, was that there were a lot of generalities there. But they specifically said they're looking to people like us, people in the multi-stakeholder system, for feedback on what they were presenting, is actually specifically stated in these documents. So I think your comments are great, and we should run with them. Thank you.

JONATHAN ZUCK: Thanks, Marita. Vanda, go ahead.

VANDA SCARTEZINI: Alan, thank you. It's related to the proxies. I believe that the GDPR, as they are now, running normally, they demand that if anyone in the chain like suppliers or proxies or whatever, be responsible to follow GDPR.

So I don't believe that the proxy will be any kind of problems in the future, because they are now responsible. So they will continue to be responsible to follow the GDPR. Thank you.

ALAN GREENBERG: May I respond, Jonathan?

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JONATHAN ZUCK: Of course. Yeah. Thanks.

ALAN GREENBERG: Yeah, GDPR definitely applies. We're not questioning that. The question is whether the NIS directives will apply. And as they stand right now, they might not apply to proxy providers.

Now, if a proxy provider is an integral part of a registrar, then they may. If it's a separate corporation, they may not, unless we're explicit about it. So that's the real issue.

Certainly, when we looked at SSAD, we did not include privacy proxy providers as part of the group that has to respond. Right now, if you go to SSAD and you demand the information for a—right now, even though a domain is registered by a privacy proxy provider, it may be redacted under today's rules. And the SSAD would only end up releasing the name of the privacy proxy provider, not the original registrant.

So that's why—

VANDA SCARTEZINI: Understood. I believe there is a lot of general aspects of this proposal that I believe we need to work on to make it more clear, because in the end, when it is implemented, certainly, we raise a lot of problems.

JONATHAN ZUCK: Thanks, Vanda. Hadia, go ahead.

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HADIA ELMINIAWI:

I have a quick comment in relation to accuracy. Alan says in the slides that the EU people believe that accuracy is not just for the data subject, not so within ICANN. And again, this is how we choose to identify and deal with accuracy, but the existing GDPR does not say so, and many of the explanations and guidelines do not say so. It explicitly says that accuracy is also in relation to the purpose for which the data was collected, and that makes perfect sense. And also during the presentation, one of the presenters answered a similar question also by saying—and he also said that it is also in relation to the purpose for which the data was collected.

So again, I'm not sure, even if they put more words in there, we will choose to take them, because right now, there is no problem with what accuracy means, but again, we choose not to take this answer or this explanation.

JONATHAN ZUCK:

Thanks, Hadia. Yrjö.

YRJÖ LANSIPURO:

Thank you, Jonathan. As [we agreed] two or three weeks ago at the CPW meeting, I circulated among the EURALO ALSes a request for input to this ALAC advice, and Alan, you are going to get or maybe you already have had some of those inputs. I asked them to be sent by email directed to you. Thank you.

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ALAN GREENBERG: Thank you, Yrjö. I don't recall receiving anything like that. If you have seen something come to me that I've missed, please let me know. We're on a very tight timeline at this point. I plan to have a draft ready at the latest at the end of the weekend. We need approval from the ALAC to submit this or at least tacit approval from the ALAC, and the deadline is the 15th of March and there is no flexibility.

YRJÖ LANSIPURO: I have seen some, so I'll just relay them to you.

ALAN GREENBERG: Please do, and make sure that I don't miss them. If I don't acknowledge them, wake me up again. I get several hundred e-mails a day, as many of us do, and sometimes things get buried.

YRJÖ LANSIPURO: Okay.

JONATHAN ZUCK: Great. Thanks, Yrjö. Olivier.

OLIVIER CRÉPIN-LEBLOND: Thank you very much, Jonathan. I have a couple of questions, more general than anything else. A few weeks ago when the NIS2 directive came out—maybe it was more than a few weeks ago. When it originally came to light, the contracted parties were quite dismissive of it saying, well, this still needs to go through many different hoops before any of

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this gets implemented. With the meeting that took place and with the commission coming up and explaining things, has this mood changed, and has it changed the dynamics of the EPDP?

And the second question that's related to this is, in your understanding, seeing how the commission presented and so on, do you see this as they were posturing, or they were generally trying to find a solution to work with ICANN?

ALAN GREENBERG:

I see Hadia has her hand up, but let me give a quick answer. I think it's all of the above. It will take several years, and it may change between now and then. That being said, I think it's just going to get clearer, not less vague. But no doubt, the contracted parties are going to submit their comments to the EU as well, to the European Commission as well, and they may change things in another direction.

So it's going to evolve. Will it affect the EPDP right now? No, I don't think there's a chance in hell of it impacting it at this point. As much as people complained about ICANN burying its head in the sand on privacy issues before, I think there is an intent to ignore this one until it becomes a reality, because of the difficulties.

I think it's inevitable that it will come about, and I think it's foolish not to take that into account now, but I don't see that really changing, to be honest. Whether it's posturing or simply good business practice not to worry about things that are three years out, I won't comment on.



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JONATHAN ZUCK: Thanks, Alan. Hadia, go ahead.

HADIA ELMINIAWI: Thank you, Jonathan. So to answer also Olivier's question, no, it hasn't definitely changed the position of the registries or registrars within the EPDP, and also, it's not affecting the work. However, in the legal subcommittee, we have agreed to submit a question to Bird & Bird in relation to NIS2, but the answer is intended to be used for future guidance and not actually to guide our current work. However, we agreed to go ahead and submit a question in that regard.

JONATHAN ZUCK: Thanks, Hadia. Alan, are you thinking of addressing the company size issue as part of your draft?

ALAN GREENBERG: Without a doubt. Any of the stuff I put in red are things that I believe we must make comments, except for the one on the recursive resolver.

JONATHAN ZUCK: Okay. Thanks, Alan.

ALAN GREENBERG: I think that one's critical. If we don't address that one, then we may as well just shrug our shoulders and give up.

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JONATHAN ZUCK: I think that's right. The size issue comes up a lot, and I feel like it comes up in a DNS abuse context as well, and that may be an area where ICANN can help play a role somehow. If it ends up being too onerous on smaller businesses, we need to find a solution to that because it does come up too frequently.

Okay, I guess, thanks. Looking forward to your draft. Olivier, back to you.

OLIVIER CRÉPIN-LEBLOND: Thank you, Jonathan. And I gather the remaining two public consultations with a deadline on the 30th of March and 8th of April will be dealt with in a future Consolidated Policy Working Group call.

JONATHAN ZUCK: That's right.

OLIVIER CRÉPIN-LEBLOND: I was just wondering whether, for example, was there any update on the SSR2 team final report, or are we just moving this to the next ...?

JONATHAN ZUCK: We're missing Greg on this call, and with the extension, I think we can push it out a week.

OLIVIER CRÉPIN-LEBLOND: Okay. Thanks very much. That means we are now moving to Any Other Business. I'm not seeing any hands up for Any Other Business. We are 15

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minutes behind the official end of this call, so we can go to our next meeting time. When will that be?

YESIM NAZLAR:

Thanks so much, Olivier. As you know, next week is ICANN 70 prep week, so unfortunately, interpretation will not be provided. However, if we still would like to hold our call next week, we can do English only. And the time that I'm going to suggest will be next Wednesday, 10th of March at 17:00 UTC because if we go with 19:00 UTC, it's going to clash with one of the ICANN 70 prep calls, assuming people would want to join that call. So 17:00 UTC for next week.

OLIVIER CRÉPIN-LEBLOND:

Thank you, Yesim. Are we all okay with that? Do we have any major clash or something at that time? It looks as though it's okay. Yeah. So let's then proceed forward. 17:00 UTC, Wednesday the 10th of March. And with this, I'd like to thank all of you for attending this call, and especially our interpreters and our transcriber who have stuck with us until the very end. And until next week. Have a very good morning, afternoon, evening or night, wherever you are. And Jonathan, you have the last word.

JONATHAN ZUCK:

Thanks, everyone. Take a look at the talking points document.

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YESIM NAZLAR:

Thank you all. This meeting is now adjourned. Have a great rest of the day. Bye.

**[END OF TRANSCRIPT]**