
ANDREA GLANDON:

Good morning, good afternoon, and good evening. Welcome to the Registration data Policy IRT meeting being held on Wednesday, the 19th of May, 2021 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. Please note the raised hand option has been adjusted to the bottom toolbar reactions section. As a reminder, those who take part in ICANN multistakeholder process are to comply with the Expected Standards of Behavior. With this, I will turn it over to Dennis Chang. Please begin.

DENNIS CHANG:

Thank you, Andrea. Welcome everyone. I just noted that this session is being recorded. Pop-up coming up so that's good to know. Our agenda before you is published on the IRT wiki page as always. And it's a rather lengthy and full agenda. But rest assured that we don't need to finish everything on this agenda.

Often, as you have noted, it's not really easy to predict how long each item will take in discussion. One thing that I am trying to do as I conduct this session is to pay attention to when I should let the conversation go on and when I have to cut it off because we have more important things

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that we have to discuss. I'm trying to make it efficient for all of us to have the discussion at the appropriate time, hopefully with the right data that we're all looking at, at the same time. So that is tricky. So please bear with me and if you have guidance for me in terms of agenda and how we conduct these sessions, please raise your hand and talk to me at any time. You can send me emails, too.

So the first item on the agenda is now what we call team member check-in and updates. And consider this part of that. This where we share with one another the news in our lives. Has anything changed for you? Did you get reassigned, or change jobs, or are you buying another company? Or any major initiatives that you know about and working that impacts the Registration data Policy would be good, too.

Vaccine. Sarah has vaccine. Wonderful. I got mine, too. I got the J&J, just before they announced there was some sort of an issue. But thankfully, it got cleared up. All of my ITT members, I'm happy to report, are vaccinated, too. So that's good. All right, Beth. So that is one thing, of course. It's a choice now—personal choice. But I myself believe in it so I went ahead and got it and all my family, too.

So let's go on. Any other announcement. If not, let me tell you about the ICANN 71 session. Andrea, can you tell us more about the session scheduling?

ANDREA GLANDON:

Absolutely. So we did have to make a change on the ICANN 71 session to help out the EPDP Working Group. So it will now be scheduled on Monday, the 14th of June from 14:30 to 15:30 UTC. All of the

participants do need to register and you can register now. They're saying the schedule will be available starting on Monday so go ahead and get registered. And then, as normal, the Zoom information will be available 24 hours before the meeting on the online schedule.

DENNIS CHANG:

Thank you, Andrea. Let me just tell you that my personal belief—and you can either agree with me or disagree with me—I agreed to change from Wednesday spot to Monday spot. I wanted the Wednesday spot and we had it first. But when the request was received from the EPDP Team to give up that spot for them, I agreed with them. And this is the IPT in support.

My belief is that EPDP is a community-led initiative and they are accountable where ICANN Org is supporting. So I choose to yield and defer to the community initiative—community project before mine. Of course, as you know, IRT and this policy implementation is an ICANN Org-led activity and ICANN Org is accountable and community is in support of the ICANN Org. It's sort of reversal in role from the PDP and implementation. So that's why I'm happy to yield this spot. But I think it's still a good spot. It's not that different in terms of time of day.

So I hope this works out for all of you. And especially I know that it was good for those of you who are common to the EPDP Team as to the IRT here. And let me show you that in our workbook, we, of course, are trying to use the workbook in a way that it helps us. So we added the EPDP 2 Team Membership. And you can see the participation in the

EPDP 2. It's pretty heavy. So had we gone in conflict with them, it wouldn't be optimal. That's one thing I wanted to show you. Thank you.

Next is RedDoc. So we have one, two, three, four, five, six, seven, eight RedDocs that we're going to review. Let's see if we can get through them and clear some of this out. Some of this, I think, is going to be fairly easy. Others, we may have to discuss a little bit and maybe not even finish today.

But here is the first one. It's called UDRP and it is a policy. And inserting is our typical comment inserted for notice. That's what we have. And the changes that we are seeing in the first area is here. So we went from "the domain name holder or registrant" to the "domain name holder or registrant," which is actually the same. So I think what would happen, if we had wanted to maybe change, we thought about changing to "domain name holder" but we're going back to the "domain name holder or registrant." I believe it was a recommendation from an IRT we received.

If there is no issue here ... Okay. That's a different one. So if there's no issue here, we're going to go ahead and reject the change. Basically, this will be a rejection of the proposed change and keeping it in the same way. Pause. Comments, IRT? No? Okay.

Then the next one is this one. This is, we had a bit of an IRT discussion. Sarah suggested maybe "domain name holder." I think basically Brian says that we should keep it the same and I think Sarah agrees so we're going to clear this, as I said. We're going to clear this comment at the IRT

meeting. So if there is no more discussion, Isabelle, feel free to clear it. Thank you.

Next item is ... Oh. Thank you. This is a correction. I believe it's just a clerical correction, not having anything to do with registration data policy. But we noted an error in the reference and we're correcting that.

Next item is the same idea here. Here, let's see. We had "WHOIS database," and then we went to "registration data," "RDDS," and now maybe we want to go back to "registration data." Let's see. I'm trying to get the ... Yeah. This is the one, right? Roger, "I think we should probably talk this through. It seems like RDDS would be correct." So, Roger, you added a comment, "Maybe RRDS is better than registration data."

We're going back and forth and we want to hear from you. Do you want to talk to us about this, Roger? Are you here? I see you. Want to open up your mic and talk, please? Anyone else have comment on this? Which would be better? "registration data" or "RDDS?" Which would be better? So, "In general, the jurisdiction is either the location of our principal office or of ..."

ANDREA GLANDON: Dennis, Brian King has his hand up.

DENNIS CHANG: Hey, Brian. Thanks. Help us out here.

BRIAN KING:

Hey, Dennis. I would note, for this one, that this one isn't all that important. It's an aside and it's a non-controlling comment about where jurisdiction might be for the appeal, if I'm not mistaken. It's the heading here after UDRP. So it's probably not that critical how this is defined. I guess I have a preference for not changing things that it's not clear that it's warranted by the Phase 1 final report. But "registration data," I think, is fine as it's defined. It is capitalized there. So if we're going to do that, it would be good to have it defined in this document. I'm not sure if it is. I could ramble for while but I think it's okay, in summary. Let's just see if that's defined in this document somewhere. Thanks.

DENNIS CHANG:

Yeah. We thought that "registration data" would work better here than the "RDDS." But Roger is back. I see his chat. We're talking about your comment, Roger, on this "RDDS" versus "registration data." The jurisdiction talk seems to fit better with the "registration data," in general. But we want to hear from you if you want to talk to this or if you don't have a strong feeling, then we'll just keep the "registration data." Go ahead.

ROGER CARNEY:

Hi, Dennis. Actually, I don't know. It's been a little while since I put this in there. I don't know that I had a strong feeling on this. I just thought that the "RDDS" sounded better. Again, I don't have a strong opinion on it.

DENNIS CHANG: Okay. Thank you, then. I think we'll go with "registration data," then. And who else. Brian, did you want to talk again?

BRIAN KING: Nope. Forgot to put my hand down. Thanks.

DENNIS CHANG: Thanks, Brian. Marc?

MARC ANDERSON: Thanks, Dennis. It's curious. I'm trying to understand the context of this particular item. The phrasing preceding this is curious. It says, "In general, that jurisdiction is either the location of our principal office or of your address shown in our registration data," or what was previously "our WHOIS database." Can somebody help? Who is "our?" Who does "our" refer to? Because I think maybe that's important context. Who does "our" refer to in this context?

DENNIS CHANG: Let me see. Yeah. That's a good question. Is there any IRT member that wants to talk to that?

OWEN SMIGELSKI: Dennis, I can speak to that.

DENNIS CHANG: Yay, Owen! You're the IRT expert, right?

OWEN SMIGELSKI: I wouldn't necessarily say I'm a UDRP expert. But having lived and breathed registrar compliance for a year or so ... So the way the UDRP policy is written is it's written on behalf of the registrar and it's supposed to be included in the terms of service. So any references to "us," "our," whatever refers to the registrar. And anything that refers to "you" is referring to the registrant of a domain name. It's up in the very preamble of the UDRP policy if you want to go see that for verification.

DENNIS CHANG: Marc, does that help?

MARC ANDERSON: Thanks. That's helpful.

OWEN SMIGELSKI: Yeah. It does read kind of weird. But if you put that ... This is the first one that they drafted in terms of a consensus policy, back in 1999. So I guess they've evolved how they wordsmithed things in the past, just haven't updated this one. Maybe that can be part of the UDRP review that's upcoming. Thanks.

MARC ANDERSON: That's okay. So then, if you're talking about "as shown in our ...," the question is, is it "In our registration data?" Is it better to say ...? So if I

replace that, I'd say, "in the registrar's registration data" or "in the registrar's RDDS?" I don't know.

I think I agree with Brian. Maybe it's not particularly material. I think maybe both accomplish the same thing. But I also agree with Brian. I'm inclined to make changes as little as possible. And the previous language was "WHOIS database," not "WHOIS data." That maybe causes me to lean more towards saying, "Registration Data Directory Service" is the right answer here. But I don't know that this is that big of a deal.

DENNIS CHANG:

I see an interesting suggestion from Sarah on the chat but I'll let Roger talk. Go ahead.

ROGER CARNEY:

Thanks, Dennis. With Owen's input there, I do think "registration data" probably makes more sense because we're not going to look at ... As a registrar, that's who "our" is. We're not going to look at our RDDS. We're going to look at our data. What Sarah's saying is maybe true as well because we're going to look in our database. So I don't know that it matters if it says "our registration data" or "our database," because that's what basically we're going to be doing. Thanks.

DENNIS CHANG:

Okay. So "registration data" it is. Oh! "Less is more." Okay. There is more. So what do you think, Roger? Do you think that we should say ... Oh. Beth has an opinion. Go ahead.

BETH BACON: I don't have an opinion. I have an annoying question, which may be the same thing. I can't remember and I'm not sliding up. In this policy, is "minimum registration dataset" or is it "registration data" that is a defined term? I just think we should keep that in mind if we're going to use that here. But I liked Sarah's suggestion for a light touch and defer to them as per usual.

DENNIS CHANG: I like that, too. Roger, what do you think?

ROGER CARNEY: Yeah. With everybody's input on being the light touch, less is more, however you want to say it, I think Sarah's idea of just leaving it as "database" is probably the cleanest way. Thanks.

DENNIS CHANG: Okay. So I think this is more confusing but we're basically ending up with "database," which means we only affected deleting the word WHOIS. I like this. Any objections? Brian, go ahead.

BRIAN KING: Yeah, Dennis. Sorry. I don't intend to be difficult but I would object on the basis of clarity here. The address that's listed in ... I don't care what you call it—WHOIS database, registration data, or RDDS. I don't care. But that address is dispositive for jurisdiction for an appeal in some

countries, I'm pretty sure including the US, meaning that you can appeal a UDRP decision in a country based on the address that's listed in that WHOIS data.

So just "in our database" is ambiguous because the registrar could have a number of databases, including customer contact information that's not the WHOIS database. So it's just better and clearer if you say what kind of database it is. I don't care how you do that but you should say which data.

DENNIS CHANG:

Okay. So you are leaning more toward "registration data?" I was good with that already so I don't mind. Any objections to "registration data?" If not, let's make that and go. Thank you for your support and discussion. Okay. Thank you, Roger. Brian, did you want to talk?

BRIAN KING:

Nope. Forgot to put my hand down again. Sorry.

DENNIS CHANG:

Okay. No problem. Next item we get to is ... That's it.

ANDREA GLANDON:

Dennis. Sorry. We did miss one thing in that same section. We wanted to review, in section 4(k), the proposed changes by Brian in the references.

DENNIS CHANG: 4(k)?

ANDREA GLANDON: Paragraph 3(c) and (b), a little below there. There's two where it's crossed out. That one and the one below. Yeah.

DENNIS CHANG: Oh. Thank you. This is should it be, "[inaudible] and does not exist?" "Agree. We'll leave it as is," is what I said. Let me see. Oh. So I forgot what I said, what I'm agreeing to. So here, paragraph three, the proposed change is c8. And Brian is pointing out c8 does not exist and I said I agree with it. So we'll leave it as b8. Is that correct? Somebody at the ITT, please remind me. Anybody?

This is a reference to the right phrase, the right point. So this is another one of those clerical errors. And here is the same thing. Yeah. Same. Leave it as is. So this is what Brian is pointing out for us and somehow we missed that. Okay. Okay? Any more discussion? We'll correct it as ...

So basically, here's what we're doing. We're rejecting that change that Isabelle originally made, which will get it back to the way it was. And I think we got confused somewhere along the line and pointed to the wrong place. We were trying to fix something and we didn't. Sorry. Okay. Did you get that, Isabelle and Sam? Do you want me to make a note?

SAMANTHA MANCIA: I'll make a note. Isabelle is not here today. But I will note it.

DENNIS CHANG: Okay.

SAMANTHA MANCIA: I just wanted to confirm that we're going to be reverting back to the original—just to make sure of that.

DENNIS CHANG: Okay. Thank you so much. Thank you, Sam. Are we done with this one?

SAMANTHA MANCIA: Yes.

DENNIS CHANG: Thank you. Let's go to the next one. I'm going to close this and we'll go to our next one. This is another UDRP. And this one, this time, is called the roles. It's a complement to that policy. Let's see where the changes are.

So this is the first time we changed it and we're basically changing back. We saw that we had attempted to change it to "registrant name holder" and realized we didn't have to, and maybe we don't want to, and "registrant" just works better. So we're going to go back to this original language. So if there isn't any reason that we have to change to "registrant name holder" then we're going to go back. I don't see any comments from the IRT here so let me know. Thank you.

Next one is this one. Oh. I'm not that strong about this but I want to hold the principle of minimal change and avoid unnecessary change. And I think the hyphen—not having hyphen or not hyphen is not germane to the policy or is not ... I don't know if it's considered an error that we have to correct.

SARAH WYLD:

Yeah. Dennis? Hi. Completely agree. When I left that comment, I didn't notice that it was from the original. So I still think it shouldn't be hyphenated but I completely agree that we should just minimize the changes that we're making, not change it right now. Thank you. Yeah.

DENNIS CHANG:

Okay. Thank you so much. Okay. And here, what did we do here? Registrant data. So we went from "WHOIS database" to "registrant data." This is similar to the discussion we just had, right? We agreed "our registration data," "our database ..." That was the original concept so we want to keep it consistent to say, "registrar's registration data." Any objections here? Let me see. Did I get any comments from the ...? Let me see here. Yeah.

Oh. Roger made a comment here that says ... Oh. Okay. Roger made a comment, then I made a comment and Roger agrees. So I think Roger is okay with "registration data" after that discussion, if you track our comments here. Thank you, Roger. Did you get that, Isabelle and Sam? Do you want me to make a note or are you okay? Okay. I'm not hearing so let me just make a note. Thank you.

Let's see. Next item is here. First of all, the hyphen. You're okay, I think, Sarah, keeping the hyphen because it is original language. And then we are here. What are we doing here? Original language was "registered domain name holder" and we are changing to "registered domain name holder." Oh. I see. I'm sorry. I'm confusing myself. We haven't changed things, basically. Sorry. Did I get that right? We're basically not changing anything. Got it, Sam? Okay? So okay to accept the changes or reject the changes but keep the original language. You know.

So every one of these comments will be marked with today's IRT date so that we know when we reviewed them. Oh. There's a lot of stuff here. Let's see. Marc, thanks for your comment. What I did was ... I recognize this is getting harder and harder to track but what it is that we're talking about. So I created a box to say, clean language, "This is what we mean." So this is what we will end up if we go ahead and accept the changes, and reject the changes, and whatnot.

Any comments on this? Did you need more time or you're okay to go ahead and ...? "Might we increase the size of the font?" Oh. I see. Okay. Let me see.

ALEX DEACON: Dennis, I have a question when you're ready.

DENNIS CHANG: Yeah. Go ahead, Alex.

ALEX DEACON: So technical contact hasn't disappeared totally. It's been pared down. I'm not too sure why we've deleted it. Tech contact is now name, and phone number, and email, if I remember—nothing else. So there's still data in there or am I confused?

DENNIS CHANG: Go ahead, Marc. Can you help us?

MARC ANDERSON: Hey, Dennis. Thanks. First, thank you for adding the box but I apologize. I did not even notice that you added the box so I haven't had a chance to review this. And I'm having trouble wrapping my head around it quickly, on the fly. So I'd love a chance to look at this a little bit more.

SARAH WYLD: [inaudible].

DENNIS CHANG: Yeah. Okay.

SARAH WYLD: [inaudible] technical contact shown in the ...

ALEX DEACON: We're hearing you, Sarah.

DENNIS CHANG: Chris, did you want to talk about this?

CHRIS LEWIS-EVANS: Yeah. Thanks, Dennis. Hi, everyone. I think as Alex has just said, the technical contact can still be there. I thought the administrative contact had gone. So maybe rather than “administrative contact,” it should say “technical contact” in this second to last line, just before the capital B. But as with Marc, I’m just trying to get my head wrapped around it. Thanks.

DENNIS CHANG: Yeah. I think I may even have made a mistake, from what I see. “Redacted in the RDDS for ...” “Redacted in the RDDS and ...” I think I meant to delete this. I think that’s what I meant because I see ... I’m trying to basically implement the changes that are reflected on the redlines and then show you a clean version.

I think this is what it’s supposed to be and you’re right. The suggested change is deleting admin contact and technical contact. I see that. And we’re going to leave it as “when the registration data is redacted in the RDDS,” period. We’re not mentioning anything specific. So I think that was what we were attempting to do, not getting into “technical contact,” “administrative contact,” whatever it is.

So I have a request for, maybe, further review. And that should be, I think, the way we should do it. I would like the IRT to look at this more carefully and then maybe respond with a comment. Thanks for letting me know, Marc, that you didn’t know about the box. I should really not

just assume that when I do this, you get an email or something. I should be more communicative about information available on these documents when they are available. So I'll do that. My apologies.

So what we'll do is we'll keep this one. We'll keep this one for further review and we'll change the due date from this document to give you more time. But if you don't mind, get through the rest of it. This one is a little more, I think, clear. We're just deleting "administrative" here. We are keeping the "technical." So I don't expect any comments there. That's the real reason why we're doing this.

And here, let's see. Did we get this right? Now I'm worried about all these references, cross-referencing. So we'll check that. I see, "For the record, this was a ..." Alex, I'll capture Alex's comment here.

ALEX DEACON: It was a comment by AMR. That's the only thing. That's what I commented there. That's fine.

DENNIS CHANG: Okay. Thanks. I think this is fine, too. Okay.

JODY KOLKER: Hey, Dennis. I've got a question. I'm not sure if we missed something above. There's a box, right below the box that you were at. We have billing contacts in there also. I thought we got rid of the billing contacts from the domain contacts. Or does this billing contact mean the

shopper? Or is that not even involved in this? Should billing contact also be not on there? I guess it's a question for the group.

DENNIS CHANG: Yeah. I want to ask you, UDRP folks. Alex, did you get any comments from your UDRP experts? Marc has his hand up.

MARC ANDERSON: Thanks, Dennis. I have a question. Jody asked, "Or is that the shopper?" And then, Sarah said in chat, "Yeah, the shopper." I don't know what that means so somebody explain that to me.

DENNIS CHANG: I think that's the registrant, isn't it? Shopper?

SARAH WYLD: Hi, Dennis. May I?

DENNIS CHANG: Yeah. Go ahead.

SARAH WYLD: Thank you. Hi. This is Sarah. So I will say it. I am not a UDRP expert but I took it to mean the person who paid for the domain name, if that is different from the domain owner and the registrar has the information also. So not the billing contact on the registration record but if there is,

in the registrar's system, a separate billing contact. I could be wrong about that but that is how I read it. Thank you.

DENNIS CHANG: Owen?

OWEN SMIGELSKI: Hi. Thanks. Trying to convert this into terms that are used in the RAA. There is a registrant but there can also be an account holder, which is different. And I think some registrars refer to the account holder as the "shopper," meaning the customer. And then, the registrant might be the one on behalf of who the domain is being purchased for and there might be a difference there. But we're trying to avoid using words like "shopper" or something that are outside of the realm of terminology, that are in the RAA. Thanks.

DENNIS CHANG: Yeah. That helps. Thank you very much. And I agree with Alex. When in doubt, don't change it. Yeah. Alex, can you confirm that that's what you mean?

ALEX DEACON: Yeah. Again, if we assume administrative contact is going away forever and ever and never to be seen again, then removing "administrative" would be okay. If there's going to be a case where it's optional and there's some registrars and some TLDs that still have it, then I think it's

important to keep it. But I'm also not a UDRP expert. But if we want, I could reach out to those that are and work with Brian King to do that.

DENNIS CHANG: Okay. Feel free to do so. We are going to extend the due date for review.

All right. Here is a major addition. And do I have comments on this? Brian says, "Let's stick with respondent." Okay.

SAMANTHA MANCIA: Is that a comment on "registered name holder?"

DENNIS CHANG: Yeah. It is. Brian K. is making a comment on the "registration name holder." Take that out, basically, in parentheses. Just keep it as "respondent." I agree with Brian. I don't necessarily need the parentheses, "registered name holder," here. Anybody disagree with this? Okay. You know what I mean. I'm making these notes for Isabelle and Sam so that they can follow up later. Marc, go ahead.

MARC ANDERSON: Hey, Dennis. I just trying to make sure I understand the overall context. So this is in the complaint section. Is this new text being added? It seems to be replacing a semicolon with new text from the comment. Do I have this right? Is this all new text?

ALEX DEACON: Phase 1 text.

MARC ANDERSON: Okay. So this is coming from the Phase 1 recommendations to add this new text to the policy?

ALEX DEACON: Yes.

MARC ANDERSON: Cool. Thank you, Alex.

DENNIS CHANG: Thank you, Alex. Yeah. So let's take a little more time to review this one again. And let me make sure that I [write] this. I think this may help, right? Please review that.

Okay. This one. Yeah. "Why are we changing?" Brian says, "Seems unrelated." And I'm pointing out Recommendation 23 as language that were trying to follow. Brian, did you check that? Did you have a chance to look at it?

BRIAN KING: Thanks, Dennis. I did and I'm looking at it again now. If I could have one more moment, please.

DENNIS CHANG: Sarah, you're right. It means the same thing. To me, technically "shall" and "must" are equivalent and they can be interchanged. And requirements-wise, we do exactly the same thing. What we were trying to do is follow and adopt the recommendations language. "If it doesn't make a difference, why not follow the recommendation language?" is what we thought. It's okay either way for me. What do you guys think?

BRIAN KING: Hey Dennis. If I could answer your question ...

DENNIS CHANG: Please.

BRIAN KING: The legal language and "shall" and that's the type of language that you would see in contracts like that. So it doesn't make sense to change that. I don't know why we would.

DENNIS CHANG: Yeah. But that would really be a question to the EPDP Phase 1 Team. Did you mean to change it? Was that intentionally designed and deliberate, which we must follow and implement, or it was unintentional? You meant the same thing but you didn't really care if it was "shall" or "must." That is really the question.

And from where I stand, Brian—and this is going to get more and more important as we discuss—I'm trying to really pay attention to every

wording in the recommendation language, and try to parse it, and note the exact language that they use, including note the language that are missing—what I may be reading into in my brain but it’s not really there. I’m trying to pay attention to that. So, Brian, did you want to talk again?

BRIAN KING:

Yes, please. Thanks, Dennis. I think I can answer that question, too. When you’re developing policy recommendations, you do use “must” language when you’re coming up with mandatory requirements, if that’s redundant. But in a contract, you would use the “shall” language. And that’s the language that exists today. So It wouldn’t make sense to change an existing requirement like this from a “shall” to a “must,” just because the “must” is the word used in the policy recommendations to convey the same thought.

So I’m good with the rest of these updates here. I think it makes sense to update that stuff. But the must to shall is potentially ... I don't know. It seems like it could be problematic. I don’t see a justification for the change. Thanks.

DENNIS CHANG:

Thanks for that, Brian. So not in all cases where we see the recommendation language, justification does not come with it. So we have to constantly ask these questions. That’s why you all are here. Alex, did you want to talk?

ALEX DEACON: Yeah. Just agreeing with Brian. I think we should ensure that our use of these normative words are consistent with the document. This document, this UDRP document, uses “shall.” If you look even down farther, it seems to be “shall” is what’s used. So I would suggest, for the reasons Brian mentioned but also for consistency’s sake within this document, we stick with “shall,” even though the Phase 1 policy says “must.” That would be my suggestion—my preference.

DENNIS CHANG: Thank you for that suggestion. I’m not leaning more to “shall.” Marc, how are you leaning.

MARC ANDERSON: I think Alex makes a good point about consistency within the document. I generally think we should follow the language in the recommendation as much as possible. And I’m not sure I understand. Brian and Alex seem concerned about changing a “shall” to a “must.” And I’m not sure I understand what their concern is. My inclination is to take the “must” from the policy recommendation and Brian and Alex seem to think that that is a problem. I guess I’m maybe asking to understand their concern a little bit better.

DENNIS CHANG: The consistency is easy to understand, Brian. The difference between “must” and “shall” contract language ... I think you said there is a difference. And I’m with Marc. I’m not sure if I understand what the

difference is. Is there a difference? I think we're looking for a little bit of an education. So in the future, we are doing ... Go ahead, Marc.

MARC ANDERSON:

Yeah. Thanks. I think you're clearly articulating the point I was trying to make. If it is a problem, if there is a difference, then let's understand what that is and why and understand if there are implications. Otherwise, I think we should stick with what the policy language says.

DENNIS CHANG:

Go ahead, Brian. Thanks. Go ahead.

BRIAN KING:

Yeah. Thanks, Dennis. The simple explanation is that "shall," in a contract sense, is the word that's used to eliminate all doubt. That is going to happen and "must" simply doesn't convey that to that extent. You're changing a "shall" to a "must." It seems to convey that there's less of an imperative. And I realize how this might sound from somebody who's not a lawyer. I'm sorry if this sounds obnoxious. But "shall" is the word that's used.

And to propose to change it, just because that's how policy recommendations are written, is not a good justification to ... And this is, frankly, one of the most important things in this policy at this point. I'm not persuaded why it should change. I get that the policy recommendation says that's what has to happen. And I'm telling you that the word "shall" is how that works in contracts. So it should be "shall." It is "shall" today. So I don't get it.

DENNIS CHANG: Yeah. I see both sides. Like I said, I could go either way. As an engineer, I would do exactly the same thing when I'm implementing. But if there is a legality impact in this choice of words that are different in contracts, I respect that. And I think the decision that this IRT, this implementation team, is making is one of precedence—priority, if you will. Which takes precedence? The policy recommendation language that are given or the existing language that means the same thing? Matthew, help us here.

MATTHEW CROSSMAN: Yeah. I don't want to belabor this. I understand the consistency argument. That one makes sense to me. But I disagree with you, Brian, respectfully. I think the debate over contractual language is usually between "shall" and "will" and which one of those creates an imperative. But the way you described what "shall" means as an absolute imperative, my understanding is that that is what "must" is from a legal perspective and that generally, at least in my experience, the preferred term to show an absolute imperative is "must," not shall. And again, the debate that we're fighting here in the language is generally more applicable to "shall" versus "will" language.

So we can talk about this offline. I don't want to get too bogged down in legalese. But just wanted to flag that, actually, I disagree with that characterization.

DENNIS CHANG: Thank you, Matthew. Does anyone else want to speak on this?

ALEX DEACON:

Just real quick. I'm ceasing to be super interested in this debate. I'm not too sure it's a good use of time. But I will just pop up a level and say this is a good example of the issue that arise when we mess with these consensus policies which are, in fact, contracts. So I think this is just an example of issues that I think were preordained, if you will, in terms of going into this. And it's a little bit dangerous to be doing this in the first place. I know we were given the instructions by the GNSO Council to do it but it's the life that we now have to live with.

So again, I think I agree that "shall" and "must" say the same thing. But at the end of the day, one of the biggest comments from the UDRP experts within the IPC is that, "Hey. By the way, we're going to work on this soon. All this is going to change anyway." Or it may change and they may make further updates. So I'm not too sure it makes a lot of sense to spend much more time on here. I believe, in terms of this document being consistent is probably the safest way to move forward but I'm not going to die on that hill.

DENNIS CHANG:

Yeah. We don't want anyone dying. So, Roger, go ahead.

ROGER CARNEY:

Thanks, Dennis. I've moved on. I've made the decision we move past this. I wanted to discuss the next addition. I think it looks fine except I think there's a confusion between "full" and "requested." So "provide the full registration data ... requested." I think there's a possible

confusion in saying you have to provide the full registration or the registration data that was requested?

DENNIS CHANG: Oh. Okay. “Full registration data for each of the specific domain names requested.” The way I read it is full because it does have the word “full” instead of just “the registration data.” Are you suggesting that we delete the word “full?”

ROGER CARNEY: No. I’m trying to figure out what it’s actually stating. It changes it quite a bit from “provide the information requested,” meaning someone asks for certain specific items to me—the original language.

DENNIS CHANG: Yeah. I see what you—

ROGER CARNEY: But now the meaning, to me, has changed in that it’s providing all registration data for each of the specified names. Is that how that reads?

DENNIS CHANG: Yeah. That’s how I read it, when I read in the word “full.” Maybe we shouldn’t do that. But I want to hear from Brian. Go ahead, Brian.

BRIAN KING: Thanks, Dennis. It's Brian. To Roger's point, I agree. We can maybe make this a little clearer. I wonder if striking the word "requested" actually helps us convey what we're talking about here because what they're required to provide is the full registration data for each of the domain names in the ... It's called a verification request, is what's sent. So that's probably where that extra, perhaps redundant, "requested" doesn't help us. What this is saying is for each of the domain names in the verification request, you've got to provide the full data. I hope that's helpful.

ROGER CARNEY: Thanks, Brian. I think that that does make sense. And I'm not arguing either way here. I don't know. Does the recommendation say that we have to send the full registration data? Because that's different than what was said prior—the previous version of this UDRP, I should say.

DENNIS CHANG: Sarah?

BRIAN KING: I can answer that. Okay.

SARAH WYLD: Yeah. I was just going to say, I put into the Zoom chat the text out of Rec 23 from the UDRP section for the registrar.

ROGER CARNEY: So I think that Brian's right and that if we removed "requested" there, it seems to flow better.

DENNIS CHANG: Thanks for that. That's really helpful, I think. So we are going to make a suggestion to delete this one like that. Very good. Shall we move on? Thanks for that.

The next change is here. "Upon UDRP provider notifying the registrar," so this language here. And there are some comments here. "Capital P provider." I think I did that. So that's already done. Next item, "I understand this language comes from Phase 1 final report but this is oddly-worded and contradictory. The registrar must provide data, which may occur ..." Brian, can you talk to us about this one? I was trying to understand. I was having a difficult time. So if you could.

BRIAN KING: I hope so, Dennis. Maybe give me one minute just to reread, please.

DENNIS CHANG: Sure.

BRIAN KING: Aha. I think that the part that's highlighted there after the comma is unnecessary. I think maybe what that was thinking about was the SSAD, maybe. But if you get rid of it ... It doesn't add anything to the meaning of that sentence, is what I'm trying to say.

So in one way or another, the registrar shall or must provide the full registration data upon the UDRP provider notifying the registrar that there's a complaint. So that's already pretty clear. It doesn't say how that must be done. But then, the next part says, "or participate in another mechanism to provide the data." But the first part doesn't specify any mechanism. So there can't be another mechanism if there's not a first mechanism. You see what I mean? So that second part of the sentence is unnecessary.

DENNIS CHANG:

I see what you mean now. I think basically what you're suggesting ... Let me just show you what I understand and you can tell me yes or no. This is what you're suggesting, correct?

BRIAN KING:

That's right, Dennis.

DENNIS CHANG:

Okay. Sarah is hesitant to omit since it was in the recommendation. Yeah. I see your hesitance, too. I am trying to follow faithfully what's in the recommendation language but trying to also balance it in the implementation language, where our job is to really make it clear and not just blindly cut and paste. Otherwise, there wouldn't be any value for our implementation work. Sarah, go ahead.

SARAH WYLD:

Thank you. Yeah. I do waver on this one because yeah. It doesn't really add much. I do see Brian's point. I'm not sure I would say it's contradictory but it's a bit redundant. But I wonder if the intent was if the UDRP provider notifies the registrar of the existence of a complaint, probably the assumption is that the response will be through the same channel as the notification. So if they notify us by email, then we respond by email. On the other hand, perhaps the UDRP provider will use the SSAD and will notify us by email but prefers to receive the information via the SSAD.

So isn't this the language that would allow us to do that? I don't know. And then I guess Brian's point was that nothing prevents us from doing that in the first place. So what it really comes down to is if our goal is to implement the recommendations, we're not losing anything by keeping it in. We're not causing any problems. So I think it's better to keep it, even though I do agree that it's fairly redundant.

DENNIS CHANG:

Yeah. I think that's where I got confused. I agree with Sarah. It's redundant, not contradictory. So I don't feel compelled to delete this. But it is redundant so it would be a more efficient language if we didn't have it. But we are looking at UDRP rules, policy. It's not our policy. So I could go either way on this. When I'm in doubt, I'm inclined to just follow the recommendation language. That's how I am built in my particular role here as an implementation director.

BRIAN KING: Thanks, Dennis. Is a happy medium perhaps to not say “or participate” but to say “including” or “for example, through a mechanism, blah, blah, blah, specified by ICANN,” just to get rid of that ... I called it a contradiction but I think the word you and Sara used was better. How’s that for a happy medium? It lets you keep a lot of that recommendation language.

SARAH WYLD: Brian, can you just say what the full sentence would be for me, then

BRIAN KING: Sure. I’d be happy to. So maybe starting with the word “registrar” there— “notifying the registrar of the existence of a complain, including by a mechanism to provide the full registration data as specified by ICANN—” “including,” or “for example,” or something like that. You could even say “by participating in ...”

SARAH WYLD: Yeah, “including by participating in another mechanism.” I like that.

BRIAN KING: That keeps a lot of the recommendation language. And I think the “another” is where we get into trouble there, Dennis.

DENNIS CHANG: Okay. Yeah. I’m trying to follow you guys. Just correct me if I’m not doing—

BRIAN KING: Yeah, “in a” or “the mechanism.”

DENNIS CHANG: “Including by participating in a mechanism?”

BRIAN KING: Yeah, “a” or “the.” I think I’d be happy either way. Thanks.

DENNIS CHANG: Yeah. “A” or “the.” So it’s not exactly cut and paste but keeps the majority of the recommendation language intact. I think that’s the suggestion. Is everybody okay with this? All righty. Thank you.

Let’s go to the next item. And here is a reference item. Okay. Let me see. Alex, “In section six this time.” Where is this? Have we corrected this? I think we did but let me hear from you. I know we went over this and corrected this pointer. Okay.

Okay. Let’s see. We were going back and forth. Looks like either 6(b) or maybe 5(b). We have it as 5(c)(iv). I think this is right, 5(c)(4). Did you have a chance to look at this, Sarah—this comment?

SARAH WYLD: Yeah. Thank you. I was just looking at the UDRP rules page. So I don't know. That’s what I was referring to, which is 5(d). But I do see it also in 5(c)(iv) and five. Yeah. So I don't know why I thought 6(b). It’s also in

6(b) if they haven't selected a panel. But no. Okay. That refers to 3(b)(iv) and 5(b)(iv). So I guess I'm wrong. 5(b)(iv). Yeah.

DENNIS CHANG: 5(c)(iv). It's okay? Okay.

SARAH WYLD: Wasn't it (b)?

DENNIS CHANG: It was (b) and we're changing it to (c).

SARAH WYLD: Oh, yes. Sorry. Thank you. Yep.

DENNIS CHANG: Okay. Thank you. I know this wasn't part of our job. We didn't know that we were going to have to do this for policy implementation but we're doing a good service for ICANN community by correcting these things now. I'm sure that this has come up many times but people just didn't ... Same thing here.

Okay. We went through all of that. The conclusion is ... Isabella and Sam just marked all the comments that we reviewed with today's date, IRT 2021-05-19, so that we know that we reviewed it and we're okay with it. Just leave the ones that need further comments or further review—I think there were maybe a couple of things—so that we can focus the

IRT's attention to those items without having to look at all of it again. And we'll clean it up as we can, as we go.

This is an interesting exercise because as much as I like to accept the suggestions and clean it up, I have to remind myself, "No. We are here creating a redline version. We cannot accept the changes until the policy is effective. It's by design. We have to create documents that have redlines and unaccepted changes so I appreciate your patience in staying with us on this.

So let's go to the next one. How are we doing on time? Are we okay? We've got another 10 minutes or so. Let's go to our ... Did we just do this? UDRP rules. Next ones should be Transfer Dispute Resolution Policy. Okay. There we got. Okay. Let me close the other ones. I'm going to seek.

Okay. You see that IRT 2021-03-10? That means that we already reviewed this and we don't have to look at it again. Thank you, Isabelle, for making those notes. I'm seeking. Can someone tell me—and maybe you did already—where I should be looking? No. There's no notes here. Where are the new comments? Let me see.

SAMANTHA MANCIA: This one was assigned for the IRT to review.

DENNIS CHANG: Yeah. Was there a particular area? This was already reviewed.

I'm trying to figure out why we assigned this. It looks like we reviewed it already. Did we talk about this? Maybe we didn't review this one and we didn't have a chance.

SAMANTHA MANCIA: The note on the assignment says, "Review and suggest changes to section 3.2.4, xix and xx.

DENNIS CHANG: Okay. 3.2.4. This one?

SAMANTHA MANCIA: Yes, those two sections.

DENNIS CHANG: Ah! Oh, yeah. I remember now. We were having a hard time coming up with language and we requested some help from the IRT. And I don't think we got any suggestions. Did we get any more suggestions on the language? If not, then that's okay. We can just go to public comment with what we have and see what we get from the public comment. Maybe we'll get some more suggestions, then. It's okay. We'll do the best we can and if we have to move on, we will.

Let's see. I think that was it. Let me look at the task assignment. This one? Okay. I don't remember. I remember asking for some suggestions but it's okay if there's no suggestions. We're good with this. We can go to the ... 137, she says. 137? Yeah. Here, these two sections. You're

right. We have looked at this multiple times. And it's okay. I think we've invested enough time in this so let's move on.

Next item is URS. We have three URS documents. Amr, "For consistency, should this be changed to 'domain name's registered name holder?'" And I don't think we should so we're going to leave it as is. Is Amr here? Let me just make a note.

And then here. Oh. This is the same discussion we had. It's just a different document. But we're going to keep this consistent, as the decision that we had. Okay? Okay. You know what I mean. So this is okay. You can mark this. This is what I'm ... We reviewed it and we're good. Thank you, thank you.

What is this? Oh, no. No change. We're not going to change this. Amr is not here and he has not responded so I think he's okay with it.

So we come to changing this to "RDDS" here instead of "WHOIS database." But this used to be "WHOIS database" and we want to change it to "RDDS?" "Registration data in the RDDS." And I did not receive any comments so I'm assuming this is okay. Speak up. Brian, you have your hand up. Go ahead.

BRIAN KING:

Hey, Dennis. Thanks. Yeah. The suggestion I was going to make—I don't think I feel strongly about what we call this here—is that some of these URS rules really track to the UDRP rules and if you wanted to be consistent, I wonder if makes sense just to copy and paste, in a sense of

just treating these similar as the original track to the UDRP. Just a suggestion. Thanks.

DENNIS CHANG:

Yeah. I remember when I was working on creating this document. We were trying to model it after the UDRP as much as we can. I did a lot of copy and paste there. And now, I'm not sure whether, since this is between the UDRP and URS, it's all that important, especially when there is a PDP working group that's going to look at the whole thing. So yeah. It's a thought. Anybody else? "Agree with making that same change whenever possible." Okay. Thank you, Sarah. Okay. So does that mean that we should do something differently here or keep it the way it is? I guess that's the bottom line. Marc, go ahead.

MARC ANDERSON:

Thanks, Dennis. I'm super hesitant to raise my hand here. I think I agree with Brian and Sarah, to make it consistent here. It just seems like it's a little bit different situation. It seems like in all of their ... We've come across something similar, like a handful of times today, and we've used "registration database." And it feels like, in this instance, we've deviated a little bit. I'm going to use a double negative here. I'm not sure that is not warranted. Apologies for the double negative but I guess I'm inclined to agree with Brian and Sarah about keeping it consistent.

DENNIS CHANG:

Okay. Yeah. Okay. So let's agree we should aim to keep this consistent. And the problem that I have is I'm already forgetting what I did on the

UDRP so I may have to go back and look at this again to make sure that we are being consistent in the right way, meaning that the original language was not referring to something slightly different in a different context. So I need to be a little more careful. So that's what I'm going to say to you. And if you do note the changes that is reflected here is inconsistent with the UDRP, I would appreciate your help in flagging those to me.

The addition here ... I have no comments. Okay. And the deletion here is obvious, I think. Amr, what is he saying? "As is the case in other sections, this needs to be updated to reflect that the relevant contact information in the RDDS is no longer publicly available." How do we do that? Does anyone here see what the ...?

Oh. Okay. My goodness. It's two minutes to the end. So let me wrap this up. We'll pick this up at our next call. Marc, go ahead.

MARC ANDERSON:

I was just going to say I'm not sure I agree with Amr here. I think the fact that some information may be redacted is already accounted for. And the phrase, "all other relevant contact information" essentially means whatever is available and is relevant. So I get Amr's point but I think it's already accounted for.

DENNIS CHANG:

Okay. Let me just capture that, Marc. Thanks for that. I'm going to conclude the discussion on the RedDoc right now. It's the end of the hours. Thank you so much for your support. And I'll see you again.

Before you leave, I just wanted you to know that I'm working on things. Like on the workbook, you'll notice that I'm working on our recommendation status map, trying to mark out where we are. And of course, you've got this homework from me, looking at the precise recommendation language and requirement for the disclosure. So more fun to come and I will say goodbye here. Thank you very much. I'll see you in a couple weeks. And that's the session before our ICANN meeting so we'll talk more about that. Bye, now!

ANDREA GLANDON:

Thank you. This concludes today's conference. Please remember to disconnect all lines. All IPT members who are able to stay on, please do.

[END OF TRANSCRIPT]