
ANDREA GLANDON: Good morning, good afternoon, good evening. Welcome to the registration policy implementation meeting held on Wednesday the 21st of July 2021 at 17:00 UTC.

In the interest of time, there'll be no roll call. Attendance will be taken by the Zoom room.

I would like to remind all participants to please state your name before speaking for transcription purposes and to please keep your phones and microphones on mute when not speaking to avoid any background noise. As a reminder, those who take part in ICANN multi-stakeholder process are to comply with the expected standards of behavior.

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

DENNIS CHANG: Thank you, Andrea. Welcome, everyone, to another IRT meeting. We're going to be working on our registration data policy implementation. First, check-in. Any news from anyone, any announcement that anyone wants to make? Please, Marc, go ahead.

MARC ANDERSON: Hey Dennis. You were on PTO last week, right?

DENNIS CHANG: Yeah, I was.

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.

MARC ANDERSON: I wanted to ask you, how was your PTO? Are you rested and refreshed and ready to hit the ground running?

DENNIS CHANG: I will share I was in Washington D.C. and it was good and bad. For good thing, I got to see the Cuba protest that was interesting, I got to see freedom to vote protesting. I stayed near the street where they had blocked out a couple of streets and [marched] for Black Lives Matter. That was interesting. Got to see the new museum, the American African museum. That was interesting.

What was not so good is being dragged to national art gallery which I have been before and staring at the same paintings for hours. It's like torture. How long can you [inaudible]?

BETH BACON: Dennis, what I'm hearing is you came to D.C. and didn't say hi to any of us. Come on.

DENNIS CHANG: I know.

BETH BACON: Very sneaky.

DENNIS CHANG: I got in, I was there for a week and just wonderful. I really enjoyed this. Of course, I've been there a lot, but still, every time I go, it's inspirational for me. Anyway, so that's how it was. Anybody else want to share?

BETH BACON: I want to share that now my feelings are hurt because Dennis came to our town and did not say hello to any of us.

DENNIS CHANG: All right, Beth. Okay. I don't know why, but you just made me feel really guilty.

BETH BACON: [I've done my work here as a judge.]

DENNIS CHANG: That's your specialty, I know. Anyway, so shall we get going? One thing that I wanted to do is, just so that you all know—and this is the feelgood page that we look at, and it's not our IRT Wiki page, as you see, this page, and the documents that we are publishing. And if you look at our list of wave one policies and procedure redline documents, we actually did 16 documents together, and they've been published. And for completeness, we're also listing the ones that we reviewed and determined that they did not need redlining.

So I wanted to point this out and thank the team for putting the dates next to each document and when that was done. This was part of the

suggestion that you made, that it would be nice to keep track of those. So that's what's going on here. So that's there for you anytime you want to see it. I consider that as the product of our work.

And today, we're going to go look at those priority 2 recommendation documents and some OneDoc items and the drafting errors. And as always, we will see how far we get and do as much as we can. Is the agenda okay for everyone?

Okay, let's go. The first item is the ... This is Recommendation 21, is the data retention one, and of course, we have the copy of the recommendation in the box. And this one came with implementation guidance. So we thank the EPDP team for giving us the recommendation, but also adding the guidance to help us further.

So after reviewing that recommendation, we have done the analysis and in our view, the recommendation essentially confirms the retention time and that EPDP phase one recommendation 15 is implemented already for that, the baseline already reflects that. So there wasn't anything we needed to do because we thought that if you look at the retention language which is here, retention of registration data of 15 months has been spelled out. So we thought that this was going to be a really easy one and we could get over it really quickly.

But we noted Sarah's comment and I think we need to talk about that. For completeness, we also provide you a copy of the recommendation 15 from phase one in the same document. So let's do that, let's have this conversation. Sarah, are you here?

SARAH WYLD: Yes. hello everyone, how's it going?

DENNIS CHANG: Hi. Alrighty. How are you doing?

SARAH WYLD: [Fine. Thank you.]

DENNIS CHANG: Talk to us, what is your analysis?

SARAH WYLD: So the recommendation says to retain data necessary for the purpose of the transfer dispute resolution policy. That is not reflected in the OneDoc. the data necessary for transfer dispute resolution is not the exact same set of data as what the OneDoc says which is what's collected pursuant to I think section seven.

So if we could look at the OneDoc, that would be great because I did propose changes there. Yeah, if you click on the comment that I've left. There you go. So it should say those data elements deemed necessary for the purpose of the transfer dispute resolution policy. So my concern, to be clear, is not with the timeframe, it's just that right now it doesn't match. Thank you.

DENNIS CHANG: I see. So that is different than what I understood of the conclusion that the EPDP 2 team has made. So that is quite different than what we ...

SARAH WYLD: [Dennis, what part of it seems different to you?]

DENNIS CHANG: Let's give Alex a chance to speak. He has his hand up. Thank you, Alex. Go ahead.

ALEX DEACON: Thanks. I was just going to ask what data elements are deemed necessary for the purposes of the TDRP. Seems like if this is important, then we should detail what those are instead of being loosey goosey about it. It's an implementation policy, so we might as well be specific.

SARAH WYLD: Can I respond to Alex, please?

DENNIS CHANG: Oh yeah, please.

SARAH WYLD: Thank you so much. Alex, I understand—and I had been thinking along those same lines at first. My concern is just that the TDRP could change, especially because there is a transfer PDP happening right now and I

wouldn't want us to have to come back and update the OneDoc or whatever policy which is hopefully live before the transfer PDP is done.

So I think it does make more sense to refer to the policy that needs to be matched up rather than the specific data elements. That's why I was thinking along those lines.

And then in terms of what specific data is required, I've been looking at this copy of the transfer dispute resolution policy that I just put in the Zoom chat which the copy that belongs to the IRT, so I think that's the version that we've been editing. And I noticed that it does require a copy of the registration data output for the date that the transfer was initiated, which is not the same as the data collected upon registration.

So I wouldn't want us to say that we have to keep all of the collected data and then if that gets changed, that might be necessary for this transfer dispute. So yeah, I hope that's clear. Thank you.

DENNIS CHANG:

Any other comments for me? There are a couple of things that Sarah said that I actually agree with entirely, and that is we do not want to hear—so this is really the decision, right? Does the EPDP recommendation say that only those TDRP data elements must be retained for 15 months, that this retention requirement applies to only the TDRP data elements and nothing else, or does it say, was it intended to say all registration data elements?

So the current language is all registration data collected or generated, right? Pursuant to this policy. And I think that's really the question. And

when I read this and I was getting some feedback from the people who were supporting this policy recommendation that—well, I heard that the intention was to say, yeah, you can use this retention requirement for not only the TDRP data elements but for others too. So if that was not the intention and this recommendation is again being interpreted differently, then we have further discussions here. Roger, go ahead.

ROGER CARNEY:

Thanks, Dennis. I think it's getting confused on the purpose versus the data elements. Phase two confirmed, the first line, it says retain only those data elements necessary for the TDRP. So only those elements that are necessary. That's the only thing that has to be retained.

Now, whatever purposes people think they can come up with, so be it, but phase one and phase two have the exact same language that says only those elements needed for the TDRP. So I'm not sure there is any confusion. Thanks.

DENNIS CHANG:

Okay. Does anybody else want to say anything? Chris, go ahead.

CHRIS LEWIS-EVANS:

Yeah, thanks. And I can certainly see where that sort of language comes in there. I think the only thing that we may want to reflect on, which is probably in addition to Sarah's suggested language, is that the implementation guidance says that controllers must be able to establish a timeline for data elements that are for purposes other than TDRP. So maybe we can reflect that in the language as well. Thank you.

DENNIS CHANG: So those data elements deemed necessary for the purpose of the TDRP. So Sarah's suggestion is to add to the language this phrase, correct?

SARAH WYLD: Well, it was to change the language not to say all data collected or generated but instead to say data necessary for the purpose of the TDRP, because it's not only the registration data that was collected, it's the output at the time of the transfer, it's the history of modifications. We actually seem to have a note still that it requires a completed FOA, which is going away. So there will be changes to this. Yes, thank you, Caitlin, history of modifications. That's different than the data that was collected pursuant to section seven.

DENNIS CHANG: Let me try this. Registrars must retain only those data elements deemed necessary for the purpose of the TDRP for a period of no less than 15 months. So the timeline not being a subject of this agreement, the specificity here is that limitation to this retention requirement is only those data items necessary for TDRP.

I think Sarah, I think I have your suggestion correctly reflected here, right?

SARAH WYLD: I think so, yes. Thank you.

DENNIS CHANG: Okay. Anyone else have a differing interpretation, opinion?

SARAH WYLD: Actually, can I make one tiny suggestion?

DENNIS CHANG: Yeah.

SARAH WYLD: I would take out the word “only.” Registrars must retain those data elements deemed necessary ... right? Not only those. Because we do have the implementation note that says this does not prevent registrars from maintaining other data that they have a legal need to retain. So I would take out “only” and just say [it like it is there.] Thank you.

DENNIS CHANG: That’s a good point. Yeah, must retain these data elements, but they may retain others. Brian, you have an opinion, suggestion?

BRIAN KING: Thanks, Dennis. I do. My suggestion is to be perhaps a bit clearer now that we’re in policy drafting language and remove the ambiguity about who’s doing the deeming necessary here, and probably cut this down to which data elements are necessary for the purposes of the TDRP. So maybe a two-step process to improve this, get rid of the ambiguity

around “deemed necessary.” According to whom? That’s my question.
[inaudible].

DENNIS CHANG: That’s an intriguing comment.

BRIAN KING: Yeah. And then why leave ambiguity around which data elements are necessary for the purposes of the TDRP? Seems like we've establishes [inaudible] all the data elements, all the RDS data elements are necessary because they're captured by that snapshot of the RDS data in time. So I think that could be helpful, to make those two improvements. Thanks.

DENNIS CHANG: Yeah. I do need some help in reflecting what you said in this language. Sarah, can you help?

SARAH WYLD: Thank you. I think I actually do need to respectfully disagree with Brian in this moment. So I'm hearing a suggestion to specifically list the different data elements here in this section of the OneDoc, which I think we heard earlier in this conversation. I think it’s important not to do so and instead to refer back to the TDRP, because number one, the TDRP also includes other data that is not described in the OneDoc such as evidence of one of the following: if a transfer was denied, that being

fraud or pending UDRP, those are things that have nothing to do with what is collected but they are necessary to retain.

So I wouldn't want to somehow limit the ability to retain those data because we're not ... if that makes sense. And then also, the TDRP may change. We have an open transfer PDP going on right now. The policy for dispute resolution is part of that. And so I don't want to have to update this policy again when the transfer policy is done. Thank you.

DENNIS CHANG:

Yeah. And I'm with you. I would rather not be getting in the business updating a list of data items in the policy but see if we can produce a policy that can accommodate changes to the data elements in the future. But we'll see if we can actually do that. Any other comments on this retention? The key issue here is whether—and then I think that has been the discussion.

Number one, when we say all data items as in our language here, number 13, retention, when we said all registration data, does that mean all TDRP data or more than TDRP data? I think that had been the question. But I think the one thing that was now being made clear is that for purposes other than TDRP was stated in the implementation guidance. So this may have been ... Does not prevent—so this is like a “may” condition, right? So that you can retain other data in addition to the TDRP. I think that was the intention of the guidance. It was not the intention of the guidance to say that the data elements that are outside of the TDRP, this 15month retention is required.

Any further discussion on this? Thank you very much, then we will take your input and next thing we will do is reflect it on the OneDoc as a next step. So this is our analysis document. Just feel free to add to this document and make changes, and we will reflect it on the OneDoc later and we'll come back to you with those specific changes.

Let's go to the next item. Here, we have recommendation 20, it's the city field. So this is a change in the requirement, clearly, right? So the priority 2 EPDP team has changed the phase one recommendation from a must redact to may redact. That's our analysis. And I didn't see any ... Analysis may be okay, but I did notice Sarah's comment and I understand your comment. So Sarah, I tried to fix it to make more sense of it. So let's look at it now.

So what we're saying is right now, this registrant, the city field is in one section which is 10.3.1.5, so let's get that. Registrant, city. So it's in this 10.3.1 section where we have a must as a requirement, and now that the recommendation is saying that we are changing from must to may, and we have to do that, so this is a registry operator or registrar and it's going to take it out of here, 10.3.1.5, and what we're proposing in our analysis and task is to create a new section called 10.3.7 and add a language something like this: registry operator and registrar may redact the registrant city data element value in the RDDS output.

So that is a straightforward way of doing it, but I was also thinking about a possibility of adding to this, maybe adding to 10.6 instead of creating a 10.3.7. So I wanted to get your input on this. If we had something like this, would this work also, or is it better? March Anderson.

MARC ANDERSON: Hey Dennis. So I like the idea of adding it to the existing “may” section, but to be consistent with how other sections are done, it would be better to write it as registry operator and registrar may redact the following data elements, and then have subsections and list registrant organization and registrant city. So that would make it consistent with how other sections are done. But I do like the idea of combining—that way you have the “mays” together in one place. I think that’s better from an implementation standpoint.

DENNIS CHANG: I think that’s your suggestion. Let me look at this. Yeah, in the other sections like this when we have multiple data elements, we say following, right? So you're suggesting that format because we have more than one here too. So it’s like 10.3.6.1, 10.3.6.2. And 10.3.6.1 being registrant city. Something like that. Sarah, go ahead.

SARAH WYLD: Thank you. I have a related question but it’s not what you were just talking about. I want to talk about the Org field, how it’s listed here in 10.3.6. We can come back to that if you’d rather finish what you're doing.

DENNIS CHANG: Okay. I think I'm finished. Does anybody see a better way to represent this? So we have three choices: We can just add a new section, and the thought that I had was adding new section because who’s doing it,

10.3.6 was registry operator only, so if both registry operator and registrar applies, then we need to create a new section, that's the first thought.

Then I thought, well, would the registry operator or registry operator and registrar mind if we mentioned the registrant city and registrant organization in the same "may" requirement? Because it's a "may," I don't think it really matters. So I think that's a better way to do it, but then making a list is more consistent with the other sections.

Brian, did you have a comment on this before Sarah goes and talks about the org thing?

BRIAN KING:

Thanks, Dennis. If it's my turn, I'm happy just to flag here that good contract drafting would include what happens in the event of a conflict between a must and a may here. I'm thinking about a scenario where a registrant wanted to opt to have their data published and the registrar says, "Well, I may redact it." So it would be good to flag what happens in that context, notwithstanding one or the other, something like that would be helpful for clarity. Thanks.

DENNIS CHANG:

Okay, so Alex—I'm not sure if I follow that, but let me look at the comment here. 10.3.1 is a must redact, so are we saying that—what would be better if the section was under—Oh, you mean as a 10.3.2, you mean renumbering? I think that's what you mean. I see. So make it

a 3.2. I think this is what I'm hearing. Yeah, okay. It's good input, a good suggestion. Sarah, you want to talk about the org?

SARAH WYLD:

Yeah. Thank you. I'm just concerned about mentioning the org field in the same line as the city field because we already have 10.3.5 that talks about what the registrar does and if the registered name holder does not agree to publication, registrar must redact the value of the org data elements. So I wouldn't want that to get confused with registrar may redact the org.

DENNIS CHANG:

Registrar. Yeah. Good point. That would get confusing, if we say registrar must redact if ... and then we come along and say registrar may redact. Very good point, Sarah. We may have to do some more thinking about this one. Thank you for that.

Yeah, 3.5. We may have to actually treat the org separately entirely from the city field. So maybe we do need to have the city field as an independent requirement going back to this kind of a thing. Yeah, maybe [that.] Brian, go ahead.

BRIAN KING:

Thanks, Dennis. Just flagging that I think—I was reviewing in the OneDoc and looking at some of the language folk suggested that was intended to eliminate any potential conflicts or ambiguity. I don't think we're there yet. I think we're going to want to be explicit about what happens when those may and must scenarios conflict. I'm happy to help with that. I'm

going to have to drop in a couple minutes, early today, but I think we do need to be clear. Thank you.

DENNIS CHANG:

Okay. Yeah, I wish you would. Need to avoid conflict between one or the other. I'll have to be more clear about what you were saying, but hopefully others on my team have understood you and we will get back to ... Let me just make a Brian note here. I'll listen to the recording too, Brian. So we will go ahead and—"Happy to clarify." Yeah, please do. And you can just write your input into this document. That probably would be best for us, if you could do that. This is for us to play with. It's our note for ourselves. So feel free, Brian. Thank you so much. Yeah, so I'll look for your comments on this document, Brian. Thanks for your help. See you later.

Let's now go back to our agenda and let's go to the next item. This one was purpose two. So yes, EPDP team recommended the purpose, and our analysis is that no change is needed for the policy language. We don't add any purposes in any way. So that was our original stance, that we don't talk about purposes, but we just talked about the ... Which one was it? We just talked about the TDRP where we were thinking about adding languages for the purpose. Let me look at that TDRP document again.

So this one is a little bothersome, but maybe we have to live with it. We're mentioning purpose here.

ALEX DEACON: Dennis, if I could chime in.

DENNIS CHANG: Please do.

ALEX DEACON: Those are very different purposes. So this lowercase P purpose here for TDRP doesn't concern me.

DENNIS CHANG: Okay. Thank you for that. Yeah, that helps me. Roger, you have your hand up. You want to talk about this one?

ALEX DEACON: Thanks, Dennis. No, agree with Alex on that, that the lowercase P is appropriate. But I did have a comment back on that. It looks like we've missed a few words in the—

DENNIS CHANG: You mean the TDRP version?

ALEX DEACON: Yeah.

DENNIS CHANG: This one? Okay, let's look at it again.

ALEX DEACON: And I think it's more just out of clarity. So for a period ... There's some confusion on following registrar sponsorship. So it says not less than 15 months following registrar sponsorship. But does that mean when they start their sponsorship or when they end their sponsorship? I think the "following" can be a little misleading. I never have read it that way and someone brought it up to me. I always read it as after, but they thought, well, you could read it as when they start as well.

DENNIS CHANG: Yeah. I can certainly see that point.

ALEX DEACON: I don't know if just following registrar's termination of sponsorship, if that's enough.

DENNIS CHANG: That'll work. Termination. It definitely needs to be end of the—

ALEX DEACON: Yeah, and just trying to make it clear, I guess.

DENNIS CHANG: Yeah.

ALEX DEACON: I agree, Sarah, [inaudible].

DENNIS CHANG: We don't want to be too harsh, so something like ...

ALEX DEACON: Something like that, yeah. And if that doesn't make sense, maybe we can clear it up. And the other comment was on the last part where it says inter-registrant. I don't know if that's somewhat confusing because people think of inter-registrar and I don't know if that makes sense. It makes sense as it's written, if you read it as it's written. I just don't know if that'll confuse people, because inter-registrar would be not a COR. But otherwise, I think it makes perfect sense. And again, just trying to be clear here.

DENNIS CHANG: I appreciate that. Inter-registrant, in parentheses, change of registrant. I think that was the reason why we added that parentheses. Does that make it clear enough?

ALEX DEACON: Yeah, and again, I think if you read it, it does make sense, I just don't know if it'll be confusing for anybody. Thanks.

DENNIS CHANG: What does everybody think? Anybody have an opinion? Is this happy language? I'm glad to be working on a happy policy. Thank you, Sarah,

for that. Yeah, every bit helps and part of our job is to make it clear for everyone else coming along who has to look at this. Sarah, go ahead.

SARAH WYLD:

Thank you. I think we should put the words “end of” a little bit earlier in the sentence. So it should be 15 months following end of registrar’s sponsorship [inaudible] registration. I think that’s a more grammatically correct place for it to go in the sentence. Thank you.

DENNIS CHANG:

Following end of registrar’s sponsorship. Yeah, that works for me. Does it sound okay? Yeah, Roger, check with your colleagues to see if this helps. And if they have a suggestion, please, by all means.

Right, so back to our purpose two. Our analysis is no policy language needed for this recommendation, and the only thing that we were going to do is the DPT development team—which is Beth—to see if she and her team has to do anything with this. I don't know. Beth, do you have a comment on this one?

BETH BACON:

Not off the top of my head. So that is for recommendation two or one? Or purpose two or purpose one? Sorry, because [inaudible].

DENNIS CHANG:

This is priority two recommendation 22, purpose two.

BETH BACON: All right. I'll put it on the agenda for us to talk about in the data processing thing and then we'll come back. Thank you.

DENNIS CHANG: I appreciate it. Yeah, come back to us. Alex, you have a comment?

ALEX DEACON: Maybe a quick question for Beth. Beth, can you confirm that DPT team or whatever you call yourselves, are purposes included in that work? I just want to make sure we haven't forgotten something or something has fallen through the crack.

BETH BACON: No, Alex, the purposes aren't included because we have the consensus policy, and they are outlined in the consensus policy so they're referenced but not explicitly included, I don't think, at this point. It may be something that we add once we come back to the stakeholder groups and things and see that it makes more sense. But in the draft as it stands, it describes—and please, if anyone is on here, correct me if I'm wrong because we've been working on discrete portions for so long and we've kind of hammered out that easier stuff in advance. But we reference it, but it's not explicitly there but we have other definitions.

And I know that folks have been following along for quite some time and waiting for this to finish, and we are getting towards the end, so we do hope that this will be coming at you and the stakeholder groups and then coming at the IRT in relatively short order. So I'm going to go back and double check. I do think they're included in the definitions I

referenced, but we may have explicitly included them. So I'm sorry, that's a very lengthy, "Let me check, Alex."

ALEX DEACON:

No, that's help—if the purposes are not in your doc and if we're all assuming that the purposes are in the phase one consensus policy, then my question would be—it sounds like we have to update the phase one consensus policy with this update. Or does the approval of ...? Again, I don't know how this works, I'm not a process wonk by any means. I just want to make sure that we're making the update to the purposes as outlined correctly. How that works, I don't know. I just want to make sure someone's got a clue because clearly, I don't. Thanks.

DENNIS CHANG:

Beth, did you want to speak again?

BETH BACON:

Oh, sure. I was just going to say thank you to Alex, because I agree that that is important that we make the appropriate change in all the appropriate places. So when I bring this to our drafting team—someone on this call who will remain nameless but I'm sure you can figure it out went and double checked. They are explicitly stated in the document. He went and checked for me while I was babbling on.

So we will make sure that if the update needs to be made to the data processing terms, then we will do that there and then also, we can advise back and say, do we need to make that change in the consensus

policy too? But so yeah, we'll make sure it goes in all the right places, you're absolutely correct to flag that. So thanks, Alex.

DENNIS CHANG:

That's great. Thanks, Beth. We appreciate it. So we are done with this one then, so let's close this. We'll wait for Beth to come back. And this is the privacy proxy providers, recommendation 19, and we read registrar (registry where applicable) must—it's a requirement, so that's interesting, that we pay attention to "must." And the new term seems to be "and/or accredited." That's what caught our eyes, and also the clarification on the implementation notes, in this case the "must not also be redacted" was what we got. And I see Beth is making notes, notes that language should be mirrored. The recommendation which does not say "must not also be redacted," we think this will cause confusion.

I think I understand, but I think it's probably a good thing to talk about it right now. So we do recognize in this case we will have to change our baseline language to something, and for now, what we were thinking is that we copy this phrase, and/or accredited privacy proxy service into the requirement that has a "must," and then we ... You read this. Let me ask the IRT, have you looked at it? Marc has a comment too, "Implementation of this portion depends on the work that privacy proxy IRT does."

One thing that I do want to get everybody's agreement on is this: when we are working on a policy, unless we are directed to wait for another policy to complete before we can implement this policy, we have to

figure out how to make progress independent of this other IRT that may or may not exist and we have no timeline control over. So wanted to make that point, and I'm going to give that floor to Marc Anderson. Go ahead, Marc.

MARC ANDERSON:

Thanks, Dennis. So a couple things. I added this note because the intent is that ultimately, once there's a way to accredit and you have known privacy proxy service providers, that privacy proxy data isn't also redacted, thus sort of making it even harder to obtain. But the ability for registrars to comply with this is really dependent on there being some way for them to know who accredited privacy proxy services are and that at the time of registration, they have a way of identifying them as accredited privacy proxy providers. So that's kind of an important dependency.

To your comments though, Dennis, I completely agree, we don't in any way want to hold up our progress or our ability to implement this portion until privacy proxy finishes its work. That's certainly not what I'm suggesting. But I think you make that point, I think you respond to my comments. I think if we scroll down a little bit, you respond along those lines. Can we add language to acknowledge that and still create a requirement?

And I think the answer to that is yes. I think there's a way to have a carveout there, maybe an implementation note or something like that to account for that. And Alex, I don't think and/or ... I don't think the intent of and/or would mean that ... That would seem to make it so affiliated

privacy proxy services or accredited privacy proxy services could be redacted. And I don't think that's the intent.

So I think the intent is, wherever possible, to not redact privacy proxy services registration data. So I think that's still a concern.

DENNIS CHANG: Let's hear from Roger.

ROGER CARNEY: Thanks, Dennis. Thanks, Marc. Again, I think the big part here is—and I think that it's the same discussion that actually happened how many years ago now in the privacy IRT. I think if we used, for registered name, using a known affiliated or accredited privacy proxy service, that would work. I think.

DENNIS CHANG: Okay, just so that I'm clear, we're talking about registrar here.

ROGER CARNEY: Yeah, and I think that looking beyond current policies and everything, if you just say for registered names using a known affiliated registrar and registry must publish it. If at some point registries are made aware, then you would still want them to publish the privacy information, not the redacted. So I think if you did that using a known affiliated, that works.

DENNIS CHANG: Alex, I believe the “known” is redundant because accredited privacy proxies are known by definition. I don’t think that’s what Roger means, right?

ROGER CARNEY: Yeah, they're not known because there's no such thing today as an accredited privacy proxy service.

ALEX DEACON: But when they exist, they will.

ROGER CARNEY: But they don’t exist now. We’re writing policy for today, not for tomorrow. That’s what we just all agreed to, right?

ALEX DEACON: If we remove accredited privacy proxy services, we are changing in the IRT the policy agreed to.

ROGER CARNEY: I'm not removing that. I'm just adding “known.”

ALEX DEACON: Before affiliated.

ROGER CARNEY: To both of those statements. If you know if it's affiliated or if you know it's accredited, then you must put in the proxy information. That doesn't change anything, it just makes it clear and allows it to be done today.

ALEX DEACON: Okay. Thanks for the clarification. Yeah.

ROGER CARNEY: Do you agree with that, Alex, though?

ALEX DEACON: I don't know. I think I'd like to see the proposed text, and then let me take a look at it.

ROGER CARNEY: Okay.

ALEX DEACON: Personally, I think the privacy proxy policy is dead. I don't think it will come out the other end. I may be being overly pessimistic there. But either way, let's see the proposed language and let me take a look at it.

DENNIS CHANG: Yeah, so just to be clear, Alex, we are working on the proposed language here and you're free to comment further. Susan, welcome. How are you?

SUSAN KAWAGUCHI: Thank you, Dennis. So I don't know about known yet, but I'm concerned with the language as it existed and with the addition of known, because I don't think we are going to have an accredited privacy proxy service. So maybe we separate this completely, make it very clear that affiliated proxy services are published, that information is published. But I also think in some ways we need to define affiliated.

And the reason being, if I look up a domain registration and see that it is Google's registrar, they use Tucows' proxy service sometimes on those, Contact Privacy. So, is that an affiliated proxy service to Google? How broad is "affiliated?"

DENNIS CHANG: It may or may not be. But would you say they're accredited?

SUSAN KAWAGUCHI: No, there's no accreditation in place for privacy proxy services.

DENNIS CHANG: True, we don't have—

SUSAN KAWAGUCHI: ICANN shut us down years ago.

DENNIS CHANG: Okay, got you.

SUSAN KAWAGUCHI: So all we can really rely on in this language—

DENNIS CHANG: Affiliated only.

SUSAN KAWAGUCHI: Affiliated. When I look at “affiliated,” I'm thinking something like Domains by Proxy with GoDaddy or Key Systems, a proxy service. Those are identifiable to that specific registrar. But when it starts to be crosspollinated ...

DENNIS CHANG: Yeah.

SUSAN KAWAGUCHI: And then you have the other issue where it could be ...

DENNIS CHANG: Susan? You went silent.

SUSAN KAWAGUCHI: I'm sorry, I must have hit something here. So I just think because as the industry is growing and there's agreements in place, but we can't tell what those agreements are—that's justified, but when I see one

company as a registrar, known company, and another known company as a proxy, is that affiliated?

DENNIS CHANG: Yeah, so you make an excellent point. What if they're not affiliated but you know that they're a privacy proxy service? If you're not affiliated, then you don't publish? Is that what the recommendations say? Don't publish it if you're not affiliated?

SUSAN KAWAGUCHI: No, that's not the intent of that recommendation. The recommendation is to prevent looking at redacted data, requesting that data and then finding out it's a proxy service, so then you've got another level to then you have to go to the proxy service. That was the intent of that. So I don't think that addresses the issue at hand.

DENNIS CHANG: Yeah, we need to figure this out. Let's give the floor to Roger. Go ahead, Roger.

ROGER CARNEY: Thanks, Dennis. That's interesting because I think affiliate was defined in the privacy PDP, wasn't it?

DENNIS CHANG: I would not know.

ROGER CARNEY: I'm pretty sure affiliate was defined there. But to Alex's point and to your point earlier, Dennis, that work's not done so I don't know if that definition means anything. But from a logistics standpoint, if you don't know then you can't publish it. You'll publish redacted instead. And I think this goes beyond what Susan was trying to say, is Google uses or displays—I don't know if they use or not—other people's privacy products. But when happens when it's a lawyer or something that has 1000 customers and they put their own names in there? How do you know that from a registrar's standpoint, that that's not the law firm's domain versus somebody else's domain? Again, gets back to the problem of the whole privacy proxy not getting resolved. So I'm not sure. And I don't know, to Alex's point or I guess to Susan's point, I'm not sure, does "accredited" need to just be removed? I know that that was the word used throughout, but does that add future problems?

DENNIS CHANG: I think that leaving accredited does not hurt.

ROGER CARNEY: But Dennis, saying that, if the IRT doesn't finish, then there is no accredited. So that means you wouldn't have to display GoDaddy's because they're not accredited.

DENNIS CHANG: No, okay, so this is where I take issue with "and/or." And I've dealt with this "and/or" before. It was such a headache. But here, we are looking at

it again. I think when you say “and/or” here, it really means “or.” Right? Was that the intent? In other words, I think this is the intention of the requirement, is a known affiliated or accredited PPS. Marc.

MARC ANDERSON: Thanks, Dennis. Devil’s in the details.

DENNIS CHANG: Right. Who was with me when we had to deal with “and/or?” Raise your hands.

MARC ANDERSON: So I think in the working group, there was agreement from everybody that redacting privacy proxy data serves no benefit and doesn’t help anybody. We all agreed that that’s not a desired outcome.

But as we discussed it, there were a lot of—Roger and Susan have both brought up some of the challenges we had in the working group where we really have to be careful about putting registrars in sort of an unreasonable situation of being expected to know things that they might not necessarily be able to know.

So I think when you saw the first version of this from phase one, the only thing we could say for sure is that if it’s affiliated, the registrar should know it’s affiliated, and therefore they can have the information.

But then as we discussed it more in phase two, we also discussed the fact that in some future world, privacy proxy providers will be accredited

and there should be a way for registrars to then know when they receive a registration from one of these accredited privacy proxy services. And therefore, since there should be this way to know, then they'll know not to apply redaction on top of that as well.

So I think to your earlier point, there should be a way to account for that and just sort of note that, maybe at implementation, that this is dependent on privacy proxy accreditation being implemented in a way that enables registrars to know when they receive a registration from an accredited privacy proxy service.

I think as Alex said earlier, it would be good to see language, and I think maybe we could come up with something, but I think there's a way to thread the needle to account for this in this policy language.

DENNIS CHANG:

Thank you. Chris.

CHRIS LEWIS-EVANS:

Yeah, thanks, and agree with a lot of what's been going on. I think definitely need to see this a little bit more. But just to your and/or statement, I think some of that was to try to cover the fact that we wouldn't necessarily know whether [affiliated] privacy proxy services also needed to be accredited or whether, because they were affiliated, they didn't need to be accredited. So I think the "and/or" was maybe covering some of that off.

DENNIS CHANG: Yeah, I understand what you're thinking. In terms of requirement, yeah, I really do not want to use "and/or." I want to use "and" or "or," one or the other. What is the requirement? Because I think "all" covers what the intention is, "and" does not cover the intention. Do you agree?

CHRIS LEWIS-EVANS: I'd need to have a think about it, to be honest.

DENNIS CHANG: Yeah, go ahead and think about it. This "and/or" just gave me so much headache before.

CHRIS LEWIS-EVANS: I also agree with Roger's point, is at the moment there's no accreditation system.

DENNIS CHANG: No, there isn't.

CHRIS LEWIS-EVANS: So how do you know they're a privacy proxy service? But then maybe as Marc and Roger said, for the now, if it is known, then maybe we can say to the registrar you must publish the full data, because as Marc says, the last thing anyone wants is to be answering lots of different questions about stuff that they then pass on the information to go [inaudible] someone else.

DENNIS CHANG: Right. Thank you. Beth, you go ahead.

BETH BACON: Hi guys. So here's my question. We can't really have a requirement in here to enforce—because then we'll try to enforce something that doesn't exist, and I can't believe these words are coming out of my mouth, but maybe we could put an implementation note in that says this doesn't exist yet but it will, once the work is done it will exist.

DENNIS CHANG: [inaudible].

BETH BACON: Yeah, because I have concern of having something that—it can live there just like a vestigial organ without any context until it actually exists, but I would have a concern with saying just go ahead and publish everything in lack of this, because that's not what the recommendation says. So that's my concern. Thanks.

DENNIS CHANG: Yeah. I think we have to certainly add some sort of implementation note about accredited privacy proxy, because people will get confused, there's no such thing, what do they mean? So we have to mention this somehow. Chris.

CHRIS LEWIS-EVANS: Yeah, just to Beth's point, I don't think we want to publish everything just because of this, and I do quite like the "known" that Roger suggested because it helps out with the now. But whether we allow them to do just known privacy proxy services, so you almost scrap affiliated and accredited.

DENNIS CHANG: Oh, new idea.

CHRIS LEWIS-EVANS: But this is me thinking out loud, which is never a good idea, especially this late in the evening. But yeah, I think maybe something for us to take away and have a think about.

DENNIS CHANG: Yes. Actually, yeah. Sometimes, you those are—you are in a flow state when you're half asleep. So yeah, maybe there is a way we can create a requirement policy language without using affiliated or accredited, just using "known." But let me ask this question. And this has to be very clear to me about the intention of the recommendation. Was there any intention, when you were discussing the recommendation, that the registrars are going to be made or required to find out from registrant whether this is PP, privacy proxy or not? And that is a new requirement that we are trying to place on the registrar?

So in all cases, whether it's affiliated or accredited, that registrar must find out whether this information is PPS or not. Was that ever an intention of that sort of requirement? Alex.

ALEX DEACON: Thanks, Dennis. As far as I remember, there was an obligation that once the privacy proxy policy was in place and an accreditation system was spun up, that registrars could only use accredited privacy proxy services.

DENNIS CHANG: I see. In that case, there is no such thing as unknown PPS, right? I think that's what you're saying. If that was the intention—that's not envisioned, that registrar would be in a position of not knowing whether registrant is PPS or not.

ALEX DEACON: That's right. And if it was an affiliated privacy proxy service they were using, it would also have to be accredited.

DENNIS CHANG: Okay. I think I understand. Marc, go ahead.

MARC ANDERSON: Thanks, Dennis. As I recall—and I know there are others from the working group on this floor, Berry, Marika, maybe you remember this as well, but as I recall, earlier versions of the phase one policy language used known instead of affiliated. But we changed it to affiliated because known is ambiguous in these circumstances. Know not who? Who decides what is known and what is not known? How do you enforce that?

And I think the working group agreed that that was just too ambiguous, and that's why we went with the affiliated language. So again, maybe if somebody else remembers or can confirm my memory here, but I seem to recall earlier versions had "known" and we changed it to "affiliated" deliberately.

DENNIS CHANG: Chris.

CHRIS LEWIS-EVANS: So like Marc, I was there, but I don't know if I can remember that. But I think it 's a good point, there is always that known to whom [inaudible].

DENNIS CHANG: [inaudible].

CHRIS LEWIS-EVANS: Very similar to the deemed by whom that we discussed earlier. The only other point I was going to make—and I'm struggling to find it and I can't even remember if it's phase one or phase two—was there was a requirement for the redacted registration data of privacy proxies to have certain language in there. And I'm not sure whose responsibility it was to input that data. If that is the registrar's, then obviously, there's some implied point on the registrars to find out if they're a privacy proxy. But yeah, quite how that lands, I would need to see the language to confirm that for me.

DENNIS CHANG: Roger.

ROGER CARNEY: Thanks, Dennis. I think that's a fair point to try and clarify. I think known could only be known to the service provider, whoever's providing the response, but I think as written, I can see Marc's point that there may be some confusion there. But I don't see any other way that this works if the known isn't applicable to the registrar or registry. Thanks.

DENNIS CHANG: Yeah. So I don't know if my question was answered, but maybe I can answer my own question and you can tell me if I got it right. There was no intention in the recommendation to put in an obligation for registrars to be in a position to know PPS or not in all cases. That is a critical point for me. So there was no requirement like that that you were envisioning, right? That makes a big difference. Chris.

CHRIS LEWIS-EVANS: Yes, sorry, maybe I wasn't clear, Dennis. There is a requirement for privacy proxy redacted data to have certain language in there, but whose requirement that is for, I'm not sure without finding that language. I'm still struggling to find it, but I'll get there hopefully. Okay, so we need to find that requirement if there is some requirement for language that must be published when it is redacted, right? That's what you're saying? Or when it is not redacted and it is a privacy proxy? Beth, go ahead.

BETH BACON:

Yeah. Hi Dennis, hi everybody. Thanks. I think, if I'm remembering this correctly—and people can shout at me and throw tomatoes if they like, but I'm remembering this as adding accredited—or I'm sorry, affiliated, was to capture those registrars that also offer privacy proxy services. It wasn't to say that you had to publish the data, it was to get to the registrars that if they operate the privacy proxy service, then they would, because they do have a connection, be required to enforce their flowthrough requirements and be able to respond to disclosure requests for that privacy proxy underlying data.

The accredited is something that, again, as we were saying, doesn't exist yet but will in the future, and those are those outside of those privacy proxy providers that are either part of a registrar company or part of an affiliated or associated company, so they have that relationship with the registrant, they would be separate providers.

My understanding is that those are the two buckets. It was those privacy proxy providers that [we] couldn't really get to and didn't have any "oversight" and those that are somewhat connected to a registrar.

That was my understanding of the distinction, and it wasn't about knowing who knows the data, it was about finding that connection of who's responsible and for those things that you can respond to. So I apologize, I'm not really sure why we keep talking about known, because it was a discussion but it's not in the language now and I think we need to stick to the language. So I don't know if that is helpful or it's just confusing the issue more, but my understanding is that that

language is to capture those different buckets of those privacy proxy providers where we can get to them and they do have requirements and enforcement—flowthrough requirements, and those that don't. And if registrars want to push me off the boat now, that's fine.

DENNIS CHANG: So I think I'm getting it. This is a clear case, case one. No confusion here if they're affiliated, of course they know, so they know what to do. What I think I'm really worried about is this case where it is a privacy proxy information but it's not affiliated. If it's not affiliated, what is the obligation for the registrar?

ALEX DEACON: If it's known, it should be published.

DENNIS CHANG: If it's known, it should be published, even though it's not affiliated.

ALEX DEACON: That's the intent. Here's what I suggest—and I think Susan mentioned this earlier on in this debate. We actually do separate this out, as you said. We talk about affiliated and we make sure that when we talk about affiliated, that we cover the case where Google is using Tucows, and there's lots of other scenarios here, but that's an example. I think we need to cover that. I think that's clearly the intent based on my involvement.

And then we could separate the accredited into a separate one with the understanding that it may not ever see the light of day and then it just dangles. But at least it's covered in case we get to that point. That seems to make sense to me.

DENNIS CHANG:

Okay, so let's say it's a privacy proxy service information but registrar does not know. Even if it's not affiliated, if they know, then they must publish. If they do not know, obviously, they're not affiliated, then don't publish. Right? Or redact.

So case number three is an important requirement, it's sort of a yes or no obligation. Okay, Beth.

BETH BACON:

This is more [inaudible] question, but when we say publish, what are we publishing? I think that's unclear as well. I'm confused. And I'm also a little bit confused as to how we ... At some point, this is going to be enforced, and we say if it's known—again, why are we using known when it was explicitly taken out of the language of the recommendation because it introduced a lot of ambiguity? Because how do you prove that you know it's privacy proxy or you don't know it's privacy proxy?

I'm thinking this through from the flow of information, from a registrant to a privacy proxy provider to a registrar to a registry and backwards. I think you may know that it's privacy information because it says WhoisGuard or whoever they are and it's very clear because as a person

in the industry, I recognize that as a privacy proxy provider and standard information. But does that then trigger this?

I think there's a lot of ambiguity here, and while I think let's keep these proposals up, I think that we should all kind of think about this in the practical, how do we implement this and how do we prove it once someone tries to trigger this for enforcement? I think that's the question. There's a lot of questions here.

DENNIS CHANG: Thank you, Beth. Okay, Roger.

ROGER CARNEY: Thanks. I think Beth's right, she's on the point that we have to look at this from how it gets implemented, because as she was just describing that, it's like, well, the registrar is the one that's going to be—or registry, however you want to say it, is the one that's going to be responsible for displaying it correctly. But how do they know that they're correct? So yeah, everybody can do Domains by Proxy because that's pretty much known, but a law firm that's representing 100 customers, how do you know that they're accredited or how do you know that they're actually providing service?

DENNIS CHANG: This is my question, actually, how would you do this? How would you implement it and how do we enforce it? All good questions. So, looks like we are out of time, so we will have to say goodbye for now and we'll have to discuss this again. So please look at this and think about it in

each case—okay, great. Susan might have suggested language. That would be great.

So yeah, please provide your input to this document and help us out. I'm going to try to do further on the analysis section. So I want to treat each case. Affiliated, yes, no, what do we do, known, yes they're known, well, how would we know? Registrar vs registry? Because the registries also have a parentheses where applicable. That is another complexity that we have not even talked about. But let's talk about registrars first and see if we can get this cleaned up and come up with a recommendation or policy language that we can understand and explain to other people.

Thank you very much. Anybody else want to have a last comment before we say goodbye? If not, I will see you all in a couple of weeks. Thank you very much. Bye now.

ANDREA GLANDON:

Thank you. This concludes today's conference. Please remember to disconnect all lines and have a wonderful rest of your day. IPT members, please remain on the line one moment.

[END OF TRANSCRIPT]