
ANDREA GLANDON: Good morning, good afternoon, and good evening. Welcome to the Registration Data Policy IRT Meeting being held on Wednesday, the 4th of August 2021 at 17:00 UTC.

In the interest of time, there will 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. Please note the Raise Hand option has been adjusted to the bottom toolbar Reaction 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. This is our 4th of October meeting, the first IRT meeting. What did I say, October? August I mean.

ANDREA GLANDON: August, yeah. I almost said October as well, Dennis, in my intro.

DENNIS CHANG: Yeah, thank you for introducing the meeting correctly. But on our agenda, we have four main topics in the AOB. And you can see this on the IRT wiki as we maintain the agenda for all of us to look at and work

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on. I'd like to start with the welcome and check-in, of course. Let's get started with Andrea sharing some news about ICANN72, please.

ANDREA GLANDON: Yes. Okay. So we don't have a lot of news yet. But as everyone I'm sure is aware by now, ICANN72 will be virtual, and all of the meetings and the bulk of the meeting will take place in the Pacific Time Zone. So that's good for Dennis and a lot of the team. And that's all the information we have as of right now. As more information becomes available, I will let everyone know.

DENNIS CHANG: Thank you. Yeah, it is good for us. Thank you very much. Item number 1b is I called it IPT news. Andrea just shared with our team the good news. Andrea, do you want to share it with the IRT?

ANDREA GLANDON: Sure. For almost the last four years, I have been a contractor with ICANN. And as of August 16, I will be an official full-time employee. I will be moving departments. I won't be working with the GNSO Secretariat anymore. I will be working with the SCOPE Team which is the Strategic Community Operations Planning and Engagement Team. But they are letting me keep the IRT so you won't lose me.

DENNIS CHANG: Yay.

ANDREA GLANDON: I'm official now.

DENNIS CHANG: That is one impressive title, Strategic something-something.

ANDREA GLANDON: Yes, it is.

DENNIS CHANG: I'm so glad. I'm so glad that the new management has decided to keep Andrea supporting us. You know how important she has been to us. We're really happy for her joining the staff team and her new role, but really, to know that she's going to be there for us, that's very, very good news.

Now, 1c, I call it the Summer Pulse, I wanted to know what if anyone are planning to take some time off this month? We have our apology from Marc Anderson. So we know that he's got a PTO and we'll ask him where he went and what he did when he comes back.

Just a quick pulse. Are many of you planning to take the day off because I'm considering perhaps canceling our meeting for our next session in a couple of weeks on August 18th? Wow, Sarah, you are really nice. You can use a check mark or whatnot, but we're going to monitor. I'm fine with canceling.

Yeah. This, what we've noticed, for obvious reasons, in August the attendance drops. And for all of you, I think you already know the Board has decided to take some time off. So we wanted to maybe do the same, give our staff some break during the summer so they don't have the pressure of keep maintaining the same.

Yeah. I know, Sebastien, you have been joining call from your PTO. I know that about you. That's just awful. Okay. That's enough for the pulse. I have some idea. Thank you very much.

Number two on the agenda. Let's get into the substance. So I ordered the three Priority 2 items in order 19, 20, 21. D is updating the Determination Map in IRT workbook. And maybe it would be easier if I show you what I mean by that. So our status map, as you know, is here. We have added 19, 20, 21, and 22 for the Task Determination Status Map and that's what I would like to update. Update meaning the color change from the definition in progress and IRT agreement on what the task is. And I think that we have our agreement with the IRT on what the task is, but let's make sure that we do that.

We started our discussion last time but I think we have some homework to do and we went back and did some more work. So this is the Analysis document. Also, I should show you the following on the analysis. We went ahead and did more work and crafted the policy language, and we assigned them as a task that's due on the 14th of August, keeping with our two-week—that's time and task time.

You can see the language that we're suggesting on the One Doc that's there already. But for today, what we should do is see if there was

anything more we received in terms of IRT comments and anything new. And I can just show you quickly the work that we've done more so you know how we came to our policy language.

First, is Beth here? I think what's Beth's comment, when I read it again carefully, I think she thought maybe this implementation note was for the policy language that we're developing but it isn't. This is an implementation note that was in the final report that came from the EPDP2 team. So, I think that is taken care of.

The other thing that we did is we went and created requirements logic like this. This really helps me to be thorough and complete and look through every sort of a scenario cases to see what the real requirement is. For example, starting here, registrar. Is the relationship affiliated? Yes, it is. And we know that. Then what do we do? We have to publish it. Redacted? No. You cannot redact it.

So I can see here a comment, Alex. This was the one that I tried to look for the recommendation language to see if I can be clear about this. So if it's not affiliated, then it's non-affiliated. It's my short term. Let's say registrar knows who the PPS is, do they have to publish it/must publish it? Recommendation language does not say that. So if I may, I think, do they have to/must not redact? Again, the recommendation language is not clear in one way or the other. So I think the only thing I can include is may. And is it enforceable? So my thought is no, you cannot enforce something there is no firm requirement for.

But let me see what Alex is saying. And Chris agrees, I think. Let's see. If the registrar knows, then they must be published and unredacted as if

they were affiliated. We probably want to hear from Alex or Chris how he comes to that conclusion. But is Alex here? Hey, Alex, do you want to speak? Yeah, go ahead.

CHRIS LEWIS-EVANS:

I talked about the scenario where a registrar, I assume, has an agreement with a privacy/proxy service to handle those registrations on their behalf. I assume there would be an agreement in place for that to happen. And so it would be known. They wouldn't need to. I don't see how it couldn't be known, right? So I just want to make sure that there's not a huge loophole here. And it seems, again, logical to me that non-affiliated but known privacy/proxy services must be published and unredacted as if they were affiliated.

DENNIS CHANG:

Well, okay. There's assumptions and you stated assumption that—and maybe Chris can chime in too—can you point to a recommendation language where we can assert the enforcement of non-affiliated? Here's the recommendation language. Is there something that makes it clear that if it's not affiliated, then we can still enforce because they happen to know?

ALEX DEACON:

Dennis, it's Alex.

DENNIS CHANG:

Yeah. Go ahead, Alex.

ALEX DEACON: If Registrar A enters into a contract with privacy/proxy B, does that meet the definition of affiliate? I'm looking at Sarah's comment here. If it's not affiliated—sorry, isn't that describing affiliated? I guess that's what we need to determine. Does a contractual relationship between the two entities meet the definition of affiliated?

DENNIS CHANG: A really good question. So you see the copy of the definition from the RAA. We are providing here for you. Let's hear from Susan. Go ahead, Susan.

ALEX DEACON: I'm not hearing Susan.

ANDREA GLANDON: Susan, this is Andrea. You may be double-muted. I see that you're on the phone. There you go.

SUSAN KAWAGUCHI: Okay. Yeah. Can you hear me now?

ANDREA GLANDON: Yes.

SUSAN KAWAGUCHI:

Sorry about that. Yeah, I've been having trouble with my Internet so I thought, "This way I can stay in the call if my system fails." But anyway, if you look at that definition of affiliate, it mentions indirectly in control. I put a real-life example of what I think is in direct control. I'm not a lawyer and maybe this is something we need to get some advice on. But if you go to Google Registrar and decide to register a domain and select a proxy, then that could be—I didn't register a domain there, but it appears to me you can choose Key-Systems proxy/privacy or Tucows. And both of their terms of service is included in the registration flow, and you have to agree to those, to one of the other.

So therefore, there's got to be a contractual agreement between Google Registrar and one of those entities to include their services. So in my opinion, that is unaffiliated because there's an indirect control of those services provided by third parties on Google Registrar's registration flow. Or do we look at this as it doesn't rise to affiliated, which I think is not the conclusion I would draw, but it is known if you have a contractual agreement with a with a third party and you know the standardized information they're providing for registration and you can reach out to them if there is a problem, that data should be published. It just doesn't make any sense to do it otherwise.

I also think—and I put this in the comments—that if we ever do get to an accredited privacy/proxy service, those all should be required to be published also because those would be known, those would be validated, verified, whatever term you want to use. It's a simple check. Just like you can check now on a registrar, is it A, ICANN accredited registrar? All of that data should be displayed.

DENNIS CHANG:

Okay. So let's make sure that we're discussing it the same way. If we are discussing what affiliated means and whether or not we agree what affiliated means in the relationship, then that's one discussion. We're talking right now about non-affiliated so we are saying this falls outside of the definition of affiliated, then how do you feel? I think first step is to determine if what we all think and we define affiliated in the same way. Am I hearing that? That there is a difference within this IRT on how to look at something as affiliated or not affiliated? Is there a difference? Or do every IRT member here are on the same page with that? Sarah, go ahead. Help us.

SARAH WYLD:

Hi. Thank you. Before I get into that, I just want to take a moment to recognize that we're in such a great position here because we all agree that the privacy or proxy service data needs to be published. So what a great problem to have that we're all working towards figuring out how to do the same thing. And we all think that the outcome should be like we all agree what the outcome should be, and that makes me really happy.

I do think that in the scenario that Alex and Susan have talked about, I think that it is an affiliate situation, yes, because the privacy/proxy service is affiliated with Tucows and is being offered to Google customers. So we don't need to get into questions of accreditation. I think in that scenario, as Alex just said in chat, I agree. Tucows is an affiliate of Google there so the data should be/must be published. But

it's not under the non-affiliated row. It's under the row up above. Thank you.

DENNIS CHANG: Thank you, Sarah. That was how I was thinking about it. But I am not sure now, having heard Sarah that Alex and Chris and Susan would agree with what affiliated means and how we would all think about it the same way.

ALEX DEACON: Dennis, it's Alex.

DENNIS CHANG: Go ahead.

ALEX DEACON: It sounds like we're all agreeing in this case.

DENNIS CHANG: Yeah.

ALEX DEACON: Tucows is an affiliate of Google and it's covered by the first row. I guess what we need to make sure is that this agreement is reflected in the IRT language. Well, I would be uncomfortable that assuming that future readers of this document, ICANN Compliance especially, would

understand that. I think it's important for us to add language to make it clear of this agreement.

DENNIS CHANG: I see. Do you mean to, perhaps, do more on the definition of affiliated means in terms of in addition to what's already in the RAA? Is that what you're thinking of?

ALEX DEACON: I don't have a specific recommendation.

DENNIS CHANG: Okay.

ALEX DEACON: I just think based on the conversation we had, it seems important that the IRT add clarifying language somewhere to ensure that future readers of this policy—and ICANN Compliance specifically—understand what we have agreed to. And it's not left conjecture or a guess or just not left vague. That's all I'm saying.

DENNIS CHANG: Yes, I understand. So when you first read the definition in the RAA, you did not come away with the same understanding as others, Sarah, for example, right? That's what you're saying.

ALEX DEACON: It wasn't clear to me. I'm not a lawyer also. But yes.

DENNIS CHANG: One thing that I would rather not do is define the same word that is already in the contract in a different way or addition to. So one thing that we could do—and I know that we will do this—is we can add explanation in the educational material that will go with this policy implementation. So that's, I think, the approach that I would take at the moment.

ALEX DEACON: No, I think, Dennis, it needs to go into the IRT language. I don't know what educational material are. I don't see why we wouldn't add it to the IRT document to the One Doc.

DENNIS CHANG: So that's what I was asking. So you are thinking that we must add it to the One Doc?

ALEX DEACON: I don't see why we wouldn't. It seems the most logical place to me and it would minimize misinterpretations of what we've just agreed to by keeping it in one space, making it easy for everyone and not forcing people to hunt down in other documents what we're talking about.

DENNIS CHANG: I see. Okay. Thank you. That is an idea. Chris, you have a suggestion?

CHRIS LEWIS-EVANS: No. I just agree with Alex here. I think it wasn't really clear where the relationship is between the registrar and the privacy/proxy services. So I think that the known covered that. But if we can make it clearer, that would also be acceptable. It might clear up the enforceable bit for the name, which I think is difficult. Because, as Sarah said earlier, who knows and where is it known sort of thing? So clearing that up. And then the One Doc, as Alex just said, I think it'd be helpful. Thank you.

DENNIS CHANG: Can we provide a real-life example but not limited to that? Yes. We provide examples all the time and we do use the implementation note as a tool to do that. What I want to prevent is that ICANN Compliance take a strict view of the definition. Okay. We're concerned about ICANN Compliance view.

Okay. So now that I understand from Alex and Chris that you're not really disagreeing with the non-affiliated, what you're really looking for is clarity on the affiliated, I understand. It so happens we are going to have to add a implementation note here anyway. And we are adding this implementation note—there's a new note F. What we are going to do is since the reader, as you say, in One Doc may not know the affiliated is already defined. We were going to add the affiliated is defined in the RAA Section 1.3, making a reference to this language in RAA. But also at the same time, we wanted to let the readers know that accredited privacy/proxy service may not be available at the time when this policy is effective. Of course, we don't yet know when this policy is going to be

effective. So, this is covering the “just in case”. Just in case that accredited is not defined, we are letting the reader know that when it is defined, then it will be applicable.

Letter of the policy. Yeah. Letter the policy is this. And this is the way we understood it. It was the same way that directly or indirectly. Indirectly is probably the keyword. We know that why the word indirectly is there. Of course, their contractual relationship and whatnot, we see that as indirect affiliated. So, that’s how we were looking at it. But Owen knows a lot about compliance and he is advising. So Compliance doesn’t [research or use] the IRT path question? Of course. Alex? Owen, do you want to answer?

OWEN SMIGELSKI:

Yeah. I can speak to that. Yeah, ICANN Compliance, at least when I was there, looks at the policy. It looks at the contract, looks at what’s in the language of the policy, and does not look to these notes and discussions and stuff like that. That it’s similar to what were in the United States, courts will sometimes look to like the legislative history or stuff like that, Compliance does not do that. So if we want something that we want compliance to be enforced, it should be in the policy. Like I put in the chat there, where there is some guidance and notes such as an ERRP in that policy, it says that reminders must be sent approximately 30 days, and then it gives guidance about what 30 days means. It means something between like 32. I don’t remember off the top of my head, but it kind of gives a range in there. And there’s some additional examples in there. So if we wanted to do something like that, we certainly can, and it would just be more stuff to Compliance. But again,

they're not going to come back and listen to these calls and look at the One Doc and stuff like that to figure out what we were thinking. We'll go by the contract. It's changed. I certainly invite Genie to jump in here. But hopefully, it hasn't changed too much. Thanks.

DENNIS CHANG: Susan, do you want to speak?

SUSAN KAWAGUCHI: I do. So that is my fear that we're all agreeing and this makes sense to us but we're such a small group. And then when there is an issue with this that the only recourse a brand owner would have would be to go to ICANN Compliance. Well, not the only but that would be your first step, in my opinion, and say, "Hey, they're not following the policy." They are controlling maybe indirect but there's a relationship here, and it's even a contractual relationship. And ICANN Compliance decides, "No, this is not"—at least in the US, I can't speak to other countries—"a formal subsidiary that is under the direct control of that entity, this doesn't apply." And as a side note, I also think anything known that it's just for the welfare of the of the Internet community—this is a side point—but I really think that if it's known, even if there's no contractual, it's not agreement and there's no control, it's not affiliated, they should still be for the benefit of the Internet community. It should still be publishing that. But that's a different argument.

DENNIS CHANG: Yeah. We do want to provide languages here to support the implementer as well as the compliance enforcement. So I'm taking some notes here on this data. What's really being recommended is an explanation. Affiliate. Okay. Got you. Thank you. That's helpful.

Let's see. Okay. So any more comments on this implementation note? I think what I'll do is weave something in this implementation note to achieve that explanation. So we'll do that so we know what we need to do on Rec 19. Any more comments on Rec 19? No? Okay.

SUSAN KAWAGUCHI: I can't raise my hand—

DENNIS CHANG: It's okay, Susan. Just speak, yeah.

SUSAN KAWAGUCHI: I don't agree with the second.

DENNIS CHANG: Oh, you don't?

SUSAN KAWAGUCHI: No, I do not agree with it.

DENNIS CHANG: Hold on, hold on. Okay. You still don't agree with this?

SUSAN KAWAGUCHI: No, I do not agree. For the benefit of the community that registrars should agree that if they know of a privacy/proxy service, I'm not expecting them to know about all of them, that they just do that to benefit the Internet community. Ultimately—

DENNIS CHANG: I understand that, Susan. I understand, Susan, what you are saying that it would be nice to do. But are you now objecting or not agreeing with the recommendation language when they said affiliated here?

SUSAN KAWAGUCHI: Well, yeah. I guess so. I am just voicing my opinion and I put in language in my comments in the One Doc. Obviously, I'm probably not going to win this one but I think the higher road and try to do what's best for the Internet community. My real focus here is to have a mechanism for registrars that are currently redacting their own proxy, which there is quite a few of those, not any on the phone that I can think of, but there are quite a few that currently redact their own proxy. That and I think the affiliated definition will cure that problem, if ICANN Compliance will enforce it. But I think as betterment of the community, we should take this a step further.

DENNIS CHANG: I understand. So that we all agree that that discussion should have happened during the PDP phase and IRT is not the time to re-discuss that. So let's do what we can within our own remit. And what we can do

is better explain what affiliated means so that it's not interpreted in such a restrictive way. I think that was the concern. So we can solve that. Now, Chris, you have a comment?

CHRIS LEWIS-EVANS:

Yeah. I may be stretching the affiliated a little bit far here, but if it's known by the registrar that they're a privacy/proxy, does the fact that they buy the domain via them have—even they're obviously signing up to a contract with the registrar to purchase that domain on behalf of someone else, obviously, but that's a form of contract. Will that scrape the bar for affiliated? I'd be interested to hear registrar or registries' view on that. And if it does, that sort of answers our question, and then making that clear, that would be good. But just on Susan's point and I think as Alex has often raised that having the known in there just makes it a little bit clearer. But it'd be interesting to see registrars and registries' views if just the normal contract on the purchasing a domain would be enough to tip in their view into affiliate or not. Thank you.

DENNIS CHANG:

So would a registrar like to answer Chris's question?

JODY KOLKER:

I'm sorry. Could you ask that question again, Chris? Sorry.

CHRIS LEWIS-EVANS:

Yeah, sure. A known privacy/proxy service hasn't got a particular contract with a registrar however registers a bunch of domains for

clients via the registrar, would that normal contract for registering a domain be enough to tip it into an affiliate because of the indirect contract that it has?

DENNIS CHANG:

I think Sarah is saying yes. Jody, what do you think?

JODY KOLKER:

It seems to me that it would and I'm having a little bit of heartburn with that because of the implementation of how that would have to be done. Privacy/proxy contact information would need to be uploaded to ICANN somewhere into some type of registry so that a registrar would be able to download all of that information to determine if somebody was registering a domain name using privacy/proxy contacts from an accredited provider.

So let's just say there's 100 privacy proxy providers, when the domain is registered, the registrar needs to download those hundred sets of contacts and compare those contacts against what the registrant is registering, then to determine if they are to display the entire contact information. I see a lot of work here for ICANN and a lot of work for every registrar to do this. That's why I'm just mentioning this. Thanks.

CHRIS LEWIS-EVANS:

I'm sorry to butt in, Dennis. I think this may be why the known and must, must not with no enforceable might be easier on the implementation. But whether that gets us where we want, I'm not sure, to be honest. Thank you.

DENNIS CHANG:

Yeah. I just want to make it clear that when we are thinking about a requirement, it is a yes or no question. So this is how I see the requirement. And I don't think there's a disagreement on the non-affiliated in the keynotes that they may publish or may be back, but it's certainly not something that can be enforced because the requirement does not say one way or the other. I just want to make that clear. So while we will do, I think our task on hand is do our best to further explain what affiliated means in our implementation note so that at least those of us here leave some explanation for people who are going to look at this in the future. That's the remaining task. Thank you.

So we will move on to our next item. Privacy/proxy ... the next item is the city field. So we looked at this—I think this was fairly straightforward and we all agreed that this is a clear change of the requirement, and therefore, we have our straightforward task. We have to take the registry city from a section where it says it must be done, and then move it to a place where we can say it may be redacted.

The other couple of things that we discovered when we were studying more is that we realized that we have this data elements matrix that we're using as a reference document and that needs to be updated. I left some notes here so we need IRT review, and that's what I think that I am doing today with you. If you look at this, we said that registrant city—and this is registry operator, and there's the equivalent one on the registrar site here. Let's look at the registrar site maybe first. So redaction requirement was changed by the Phase 2 Priority 2 from March to May. So we are going to update this item here on this matrix to

reflect that change. That is something that we have to do and we're doing. I want you to know that and if you thought that there was anything that was wrong, we're not consistent with recommendation, please let us know. This is One Document that we want to maintain to help us.

I think that maybe we want to highlight it in our public comment section because it is kind of tricky. This is supposed to be Phase 1 implementation, but then we're rolling in the Phase 2 recommendations as well. So the public may get confused and we didn't do that right. So it's somewhere in our public comment section and we have to do this, and that's sort of a future task for us when we are preparing the public comments. Those I believe are the tasks.

Any questions on this? Any discussions? No? I think this one is actually one of the easier ones when the language is very, very clear about what the changes. Thank you for that from the EPDP team for making it easy for us.

Now, let's look at the third one. This one is the retention one. This one was difficult during the Phase 1 period and we have lots of discussions. Again, there's requirements for the TDRP data elements. And I think the last discussion, IRT members pointed out that we specifically mentioned only those data elements deemed necessary for the purpose of TDRP. That's like the first line on the recommendation and we agreed that's a clear language. So the requirements if you need to lay it out in a matrix form, data retention, TDRP data elements, yes, you have to retain. Data elements other than TDRP, you may retain. And information other than data elements, it doesn't address it. Duration, 15 months minimum for

data elements TDRP. Data elements other than TDRP or other information, it doesn't address it.

There was a something about our disclosure and we wanted to make sure that it was cleared and we're all understanding it the same way. The language in the recommendation talks about request, that there is a request and you may request disclosure of these data elements for other purposes than TDRP. That was clear so you may. But we want to make sure that once you get the request, there is a must and must if understanding, must disclose it, if the protection law allows it per the recommendation language.

So, based on that requirement, we have the implementation tasks defined. First one, this one we thought that we didn't have to change anything, but Sarah pointed out and we had the discussion. So, we are realizing that we have to change the Section 13 language to reflect the new recommendation language and include the word TDRP here. In our last discussion, I think Roger suggested "end of," adding that for further clarity and no one objected and we agreed with that.

So, the requirements language should be changed to this. And then I think that we need to add the retention of registration data implementation note. This is our new notes that is consistent with our new language, requirements language, and we have to delete the old notes because it basically says the opposite. So that's where we are. I think this was something that was difficult but I think we are here and we are going to come together on this. Anybody have comments on this? Sarah, go ahead.

SARAH WYLD: Hi. Thank you. Thank you, Dennis, for taking us through that. And I am I think satisfied with what you have here under 2a. It seems reasonable to me. I'm definitely, however, concerned about the suggested implementation note. I think that this will add confusion. And I say that because it sure confused me. What other data retention requirements and obligations are there in the RAA that are not being addressed by this? Then I found it, for example, it didn't really help. It just kind of repeated the sentence before it that said things under the RAA. So that whole paragraph, that confuses me. I don't understand what retention its saying is still required.

DENNIS CHANG: I see. I see. Okay. Alex, do you want to speak?

ALEX DEACON: Well, not on this point. So we can continue if you wanted to.

DENNIS CHANG: Okay. Yeah, let's continue. If you look at the TDRP and this refers to TDRP now, so we have to look at the TDRP, right? Our original language, we wanted to use language without mentioning the TDRP by referencing the Section 7 of this policy language. Do you remember that? Let me see if I can just bring that up to make it easier for you to follow what I'm saying. IRT One Doc. Okay. There we go. So it's easier to see it this way, I think.

So if you see what's crossed out there, what we had originally was data elements collected and generated pursuant to Section 7 of this policy. If we use that language, we don't have to refer to TDRP at all, and that's sort of what I wanted to do. But based on the IRT comment from last time, you all believe that mentioning that TDRP is easier and more clear. So I'm using your input to change the language to mention the TDRP.

But as soon as you mention the TDRP, then you have to look at the TDRP. If you look at the TDRP, there is no such thing as—like pursuant to Section 7, if you look at Section 7, you can see the data elements. Section 7, you will see all these data elements, they are listed here. But TDRP does not list data elements. And what then happens is it doesn't list them as data elements but they are list of things that are called evidences. There could be a misunderstanding or disagreement on whether those evidences could be considered data elements or some people may see it as data elements, others may not see it as a data element.

So that's a reason why we wanted to ensure that by implementing this policy, we're not saying that because it doesn't say data element on that policy. We're not saying that those things have to be retained anymore. Does that make sense, Sarah? Let me hear from you because it took me a while to understand that myself. Should we look at the TDRP together? Could you give me a link? Go ahead.

SARAH WYLD:

Thanks. I'm not sure that we do need to look at the TDRP. What you're saying does make sense. I agree that the TDRP does not lay out data

elements in the same way that this does. But the TDRP does say what the gaining and losing registrars need to be able to provide in order to deal with the dispute. And we have a transfer PDP happening right now that will at some point look at that policy and change it.

So I feel like we have this principle here that we're going to have a light touch as much as possible. So I'm not sure that we do need to get more specific in our policy. I'm just still confused about the implementation note and exactly which parts of the current RAA are not superseded by this. So I guess if there is a desire to maintain that implementation note then I would appreciate if the staff team could let us know exactly which sections it refers to, so that we can go review those sections in the context of the recommendation and see how they all match up. Thank you.

DENNIS CHANG:

Thank you, Sam. Okay. Here's the list of things that TDRP talks about, right? Let's see. So if you look through this document, for example, here are a list of what I thought was data elements but I am advised that people may view that as a data element, and because this document doesn't refer to this data, it refers to it as evidence. So now, do this list apply or do not apply? When we say that we have to retain in our policy language those data elements—we only mentioned data elements, not data elements and evidence—there's a requirement that they have to be retained or not. It's unclear to me. That's what we are trying to say. And you talk about the light touch and staying out of the TDRP as much as possible because there's separate work going on. This note was intended to do exactly that. So you and I are thinking the same way. We

don't want to impose any intentional requirement on the TDRP by having people misinterpret or ask questions about whether or not things needs to be retained.

I have a hands up from Genie. Go ahead. Please help.

GENIE CHOU:

Hi. When I was looking at this, like Dennis was saying, we were focusing on the data elements deemed necessary for purposes of the TDRP. Other types of evidence required under Section 342 of the of the RAA, which includes things like written communications, constituting registration applications, confirmations, modifications, etc., with registered name holders. So for instance, like the ERRP requires renewal notices to be sent to the registrant prior to expiration and after expiration, and that type of documentation would not be covered under TDRP because it's not relevant for the transfer dispute resolution process. So something like that, we would expect to still be retained by the registrar pursuant to 342 of the RAA as well as other documentations like logs or evidence that might fall into the data retention specification. I think that's what the implementation note was trying to make clear. But I'm totally open to looking at the language again and trying to rework that so that it's less confusing.

DENNIS CHANG:

So you can help us with that too. But do you see why we're struggling with this or no? Or is there a fundamental difference in what you think is a requirement and what we understand it as a requirement in terms of retention? Sarah, go ahead.

SARAH WYLD: Thank you. Yes. And again, I really appreciate this discussion. So I had assumed that the data retention requirements that we are implementing now overwrite both Section 3.4, I think you said it was, and the data retention specification of the RAA. I thought that it would cover both of those things. So that goes back to the question I had asked about the implementation notes that if that is not the case, then I would like to understand what will be maintained from either 3.4 and/or data retention specification, and then we can look at all of that together. Thank you.

DENNIS CHANG: So to do what you ask, Sarah, let me see. How would we do that? Do we have to lay out all the data elements, make a whole list to make it clear? How will we do that?

SARAH WYLD: If I were doing it, what I would do is I would start a fresh Google document. I would copy in the two sections out of the RAA that we're looking at. So 3.4 and the Specification, and I would not be in the recommendation. And then I would try to see if we implement the Rec to have only TDRP, then what in the current version would no longer be retained? I think I would think about that. And then is that problematic? Or does that just appropriately match the recommendation? I think that's where I would start, which is a lot of what you've already done in your analysis here, which is great. Yeah.

DENNIS CHANG:

Okay. Let me ask my team. Is there anyone on my team who sees it clear of the task on hand? Because I'm not sure if I do but I can see sort of a building a table like this with recommendation and was currently a data retention specification held by RAA or TDRP and what the difference would be specifically for the data elements.

Now, one thing that we did, if you recall, we already went through the TDRP and created a [inaudible] as part of the—did we do that as a part of our analysis of the impact? So here, we did that work. And we went through the whole document and identified anything that must be addressed as an impact of the registration data. So we did that already. Now, I think what is being asked and that would help is for further clarity, in addition to what we've done, laying out of the data elements, right?

SARAH WYLD:

Dennis, I was not suggesting that we should go back to the TDRP at this time. I don't think that we really need to go to the point of going through the TDRP to identify the specific data elements. I think it makes sense. Like, we know that we need to retain the data necessary for TDRP. I think that's enough right there. Then the question is, what other retention requirements could there be? I thought that was it. Only retain what is necessary for TDRP. But what I'm hearing is that we have other retention requirements that are not being overwritten here. And so I want to understand what those are. So are you suggesting that we should have all of the data in 3.4 and the data retention specifications

and the TDRP, or a subset of those things? That's not been explained yet?

DENNIS CHANG:

Okay. So the way I was looking at the registration data policy here is trying to look at it in a—I mean, literal sense, the data elements. For example, let's use TDRP as an example. Data elements deemed necessary for the purpose of TDRP. I think everybody will agree. But if somebody argues about a item and they are called an evidence and which is important part of the TDRP and they call that evidence and is not a data element, then they must not be retained. The requirement is no longer there. And that's what I was concerned about. Chris, what do you see?

CHRISTOPHER LEWIS-EVANS:

Thanks, Dennis. Maybe just a clarification here, but not maybe as close as other items. Just going through the TDRP, it states that—I think it's 3.1.4, and then down a bit. It's a copy of the Registration Data Directory Service output for the day transfer was initiated. So is that not just the Section 7 items, or am I getting confused?

DENNIS CHANG:

I would expect that number be would be Section 7 items here. Sarah, can you confirm what I just said?

SARAH WYLD:

Yeah. I think there is definitely an overlap in this Venn diagram but I don't think that it's a perfect circle. Section 7 is what data we need to

collect at the time of registration, and then it can be updated, sure. So the copy of the output at the time when the transfer was initiated, that's not necessarily the same as what we collected at the very beginning of the registration. It's a specific dataset as of a specific time.

ALEX DEACON:

This is Alex jumping the queue. What is that dataset? I think that was my original question. Exactly, which data elements are deemed necessary for the purposes of the TDRP? We can reference a TDRP but it's pretty clear that TDRP is vague on this. Either we leave it vague and it never gets enforced, which seems like a waste of time to me, but it is what it is. Or we somehow, somewhere make it clear which fields are deemed necessary for the purposes of TDRP. I'm not a TDRP expert. I don't plan on signing up to do that. But this is the crux of the problem. We don't know what data elements are deemed necessary for the purposes of this policy.

DENNIS CHANG:

I think you are sharing my concern, Alex. I don't believe that it is our job to make the TDRP data elements clear. I think that goes outside of our scope because the recommendation language refers to the TDRP in that specific way. Initially, I wanted to define it as a Section 7 item, but I think the EPDP team has made it very clear. They are intentionally deferring that to TDRP. That's point number one.

Point number two is because we don't know what other data elements, if you will, or some other evidence that the TDRP would be developing that we do not want to—it's not our intention to say in any way that the

retention requirement is applied to data elements only, and therefore, nothing else considered not data element by some is not to be retained. That's what we were trying to convey. Roger, go ahead.

ROGER CARNEY: Thanks, Dennis. I just want to note everybody keeps referring to Section 7. But b talks about registered name holder only. If you go back to where you were, Dennis, in the TDRP.

DENNIS CHANG: TDRP down here?

ROGER CARNEY: That xi.b says Registered Name Holder at the end of it. I don't think Section 7 is correct, first of all, because that seems too broad, right, because it says only for those Registered Name Holder. It doesn't talk about tech contacts, it doesn't talk about reseller, it doesn't talk about any of that, right?

DENNIS CHANG: Yes, you're right.

ROGER CARNEY: It's very specific to this. Anyway, that's just one point. I think that we just had to be more clear on what we mean by Section 7. But going along with what Alex was saying, I think that the tough part here is the recommendation specifically states the requirements from TDRP. The

TDRP may change, may not change, it may stay the same, it may get changed 10 times while this policy is in effect. The recommendation is to follow whatever that is. So I don't think that we can enumerate things here. I think we have to reference the TDRP just as the recommendation does. So I think we have to stay with it being fairly general here and anyone that wants the TDRP to be more specific, they should have that updated, not this because this was clear in the recommendation that it was TDRP and not specific data elements.

DENNIS CHANG:

I think that TDRP Working Group actually started. I think that you can join, I'm not sure, but that is an ongoing work. Thank you. Alex, did you want to speak?

ALEX DEACON:

I don't disagree with what Roger just said. I just want to point out that a broad conservative interpretation of current language in the policy, in the One Doc, in the TDRP, it could mean that zero data elements retained would be compliant with the policy. I think that's the issue, which is why I think someone needs somewhere to determine what elements are deemed necessary for the purposes of the TDRP. If it's a subset of Section 7, that's fine. If it's just registrant data, that's fine.

As an IRT, I would have hoped that we would be able to make these clarifications to policy to implement them correctly. I don't see why we couldn't. But if we don't, then I think we're in the situations where Compliance can't do their job, and I think that's an issue.

DENNIS CHANG:

I don't know if there's any members of the EPDP team who developed that language. And the intent behind it is from reading the language, it was fairly clear that the intention was not for this team to be defining the data elements but simply to point to the TDRP. And like what you said, follow the TDRP. I think that was the intention. I don't see a way of us doing anything different. As I said, one way is for us to have interpreted the data elements necessary for the TDRP and write them down here, but I don't think that is implementing it in the correct way following the intention.

At this moment, what I'm trying to do is follow the recommendation language and making it clear that yes, we are going to defer to TDRP. But at the same time, we're trying not to impose additional requirement that was not intended by adding the implementation note clarifying that there is really no other requirement that is being imposed here. It's what the implementation note was trying to say. But we all have to be very, very clear that the intention of this policy language here is that it wasn't intended to go out and replace other retention requirements that is outside of what's referred to as TDRP data elements or something else. This is a lot harder than I thought it would be. Yes, I know. Sarah thinks that 314 in TDRP is clear enough.

SARAH WYLD:

Dennis, sorry. Just to be clear, I was responding in the chat to Alex rather than to what you were saying verbally. Alex was asking which data elements it is. I mean, I think that it's the ones that it lists in 314 what

the gaining registrar has to provide, what the losing registrar has to provide. To me, that seems like the information they need. Thank you.

DENNIS CHANG:

Let me try this again. For those of you who consider these data elements is very clear, that's how I interpreted it, just like you did. But it was pointed out that these are not called data elements in the TDRP, these are called evidence. That's why. Evidence and data elements both fall under data. Okay. There is one interpretation. Does that mean that maybe you would be willing to take the word elements out? Does that help to make it more clear? I see that you did that.

SARAH WYLD:

Just to suggest. To demonstrate the change that I am suggesting to hopefully help address your concern, perhaps we could take that word out.

DENNIS CHANG:

Okay. Let me hear from others. Roger, what do you think? Does it help?

ROGER CARNEY:

Thanks, Dennis. I think it does. I think that's a good edit there. I think it is interesting how they use the evidence, though. I think that's mostly because if you look at some of the items, they aren't necessarily data or may not be data. So I think they had to use the evidence term where some of it is data.

DENNIS CHANG:

So it doesn't make it clear perfectly. This is why I was trying to use the implementation note to say that even though it's not called data elements, if you have to retain it for the TDRP, you have to retain it. Then this policy does not supersede that is what I was trying to say—poorly, obviously. But maybe I can work on the language more. We have to work on this more.

But I think that what I'm gathering is an agreement on what we all want the requirements to be. So if the TDRP people come later and revise this whole requirement and call it something else and they don't call it data elements, our retention here, just because it says data elements does not mean that the other things that they want to retain have to be no longer retained. That is what we're trying to do.

Okay. Maybe that's enough. Maybe we need to pull back and come back with some language that is more clear. Maybe that was enough for that discussion. Thank you. Thank you so much for indulging me. I hope I made it clear why we are trying to have this implementation note. If the note is more confusing then clarifying them certainly deserves rewording. That's what we were trying to do. We all knew—those of us who worked on the language knew exactly what we were trying to do. You are here as an IRT to review what we write and give us your feedback. And we did exactly that. Thank you so much.

Then our next item on the agenda. Let's go back to our agenda. Let me look up here. It's update the IRT workbook. So what I wanted to do show you is to remind you that we have our Status Map and wanted to say

that I think that we know what we have to do and we've identified the task, and therefore, I'm going to color this green. I think we're going to wait on this one to color that green. I think that I said that there is no task for IPT. But we wanted to hear back from Beth on the EPDP team before we go ahead and conclude that.

Sam, later on, you can come here and have some dates to keep track of when we turn this to green. That is one of the suggestions we wanted to keep track of when we do things. That was what I meant by Task Map.

Now we have nine minutes left. I'm not sure whether we should get into this. But this is a homework that you had, right? Disclosure request, 11.5 and 11.6, the new language was developed. Maybe we can do 11.5. 11.5, the thing that we agreed to was the two business days. We agreed to use business days and business days only and draft the calendar days in our logic map when we were talking about logic. So that's done. Any objection to this? I think this is clear. We can consider 11.5 finished, in my mind. You can resolve this comment, Sam. 11.5 is now clean.

This language is a language that reflects what we discussed before. And like I said, I thought we had an agreement and there wasn't any more discussions on the requirement. But it seems like there's still objection. This is probably a good time for me to remind the IRT what happens when there is disagreement on the way we're doing things within the IRT, what possible things can we do. And I want to remind the IRT that we have this tool.

I think you all know about the public comment form. In our public comment form, we have these sections. Section 5, you're well familiar

with. In our drafting errors, we all agreed that the recommendation language was in error and there's no dispute. Very clearly, it's a drafting error and we're capturing that, explaining that and we're going to present that as part of the public comment.

But we do have Number 6. This here, recommendations in varying interpretation and significant objection. I may reword this, but I wanted to let you know that I have captured maybe four things during our deliberation. I don't think that 6.1 is not an issue anymore so I'm going to delete 6.1. We have settled we're not going to talk about that anymore. There's no discussion on calendar days versus business days anymore at the IRT.

Retention requirement, TDRP only, I think this is also settled, we are now talking about how we explain things but I don't think there's any more disagreement within the IRT.

24-hour disclosure requirement, this is I see a lot of disagreements still. So this is the place where we will highlight the view of some of the IRT that feels strongly about a topic. Just so that you know, we're not trying to silence anyone and you have ample opportunity to present the case to the public when we go out with the public comment.

Rec 7, of course, we're waiting for the GNSO and Board to resolve this issue. They took this issue from us so that they can resolve it. So we'll just wait for them to do that.

A couple of things, if we do have anything leftover, we'll work on this, in other words, hopefully we can not have this section at all and have the

IRT come together, find support, the policy language that we are going to publish for the public comment.

That's, I think, all I want to say. We have five minutes left over. And I think that we can defer any discussion of the 11.6. I don't remember whether Roger has sent an e-mail but why don't we talk about this next time?

Then the other things, of course, there are more things that we wanted to do. But we've just laid out a plan. Those Priority 2 items, which I must say, I personally underestimated the level of discussions that we would have to go into for those recommendations. But as is, when it comes to implementation, it's not as easy and straightforward as it seems when you just look at the recommendation language in the first place. That's what I like to do, defer the rest of this for our next meeting and conclude this session of the IRT right here. Any words from anyone? IRT members? Thank you. Next meeting?

Let me think about this. Let me do some homework, 18th or the 1st. Let me do some homework and let you know. Let me talk about it with our team internally. I think right now, I'm leaning towards just canceling the 18th meeting and have some internal focused meeting to better prepare for September. There's a lot of stuff in September. But I'll get back to you. Andrea will probably send out a note. Thank you, Susan, for participating. Really, well appreciated. Thank you, everyone, and really have a good summer. Take some time off. 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.

[END OF TRANSCRIPT]