
ANDREA GLANDON:

Good morning, good afternoon, and good evening. Welcome to the Registration Data Policy IRT Meeting being held on Wednesday the 17th of November 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.

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 Change. Please begin.

DENNIS CHANG:

Thank you, Andrea. Welcome, everyone. This another IRT meeting, and this is the last one in November. Next week we have a few days off for Thanksgiving in the United States, and then following that I think we are going to resume December 1st as our next meeting. And another meeting two weeks after that on December 15th. And we're planning that to be the last meeting of the year, and then we'll plan the 2022 and put that on the calendar, the schedule here for you after that.

So as we head toward our last three meetings for the year, if you can't think about what it is that we should get done ... Sarah, you're so funny. By the way, I think if there's somebody new at ICANN here, ICANN traditionally shuts down during the Christmas to New Year time period

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as a company. So we certainly are not going to be IRT meetings on the 29th of December. So that's a quick reminder.

Is there anything anyone wants to talk about/announce as we are looking at our agenda? So I'll pause here to give you a chance to raise your hand and speak. Alrighty then, let's get going.

So let's start with our Agenda Item #2, drafting error #10 regarding the DNSSEC element addition to Section 8.2.3. This is a baseline proposal.

Let me see. Is Gustavo here?

GUSTAVO IBARRA:

I am.

DENNIS CHANG:

Oh, good. Open your mic because I want you to talk and talk freely. So, Gustavo. Sarah, too. I mean, we were having a good, interesting online discussion about a new drafting error, #10, that we added. But then it got interesting because then the whole 8.2.1 and 8.2.2 [was] questioned as well.

So to get everybody on the same level of understanding, I would like Gustavo to introduce the topic and say what this is and try to speak in layman's language as much as possible, Gustavo. I know you're very good at that. So speak English. Go ahead.

GUSTAVO IBARRA:

Well, I will try. It's not my native language, so I will try to speak English. So when I was reviewing the IRT OneDoc, it was apparent to me that something was missing in 8.2 because 8.2 appears to be dealing with the technical parameters. And usually those technical parameters for a registrar is the new server and the name server IP address; and with the introduction of DNSSEC, also the DNSSEC elements.

So I had raised this issue internally that probably the DNSSEC element is missing that Section 8.2. And as I explained in my e-mail the name servers, the name server IP addresses, and DNSSEC elements are already required to be transferred in the RAA 2013.

It's my understanding that the registration data policy is going to be the place to find all the requirements regarding transferring of data elements, so that's the reason why I think 8.2 should be there. And I think it's fine to have those three data elements there.

Now I was thinking, when I was working for a registrar and we were trying to get accredited for the ICANN Accreditation Program. We reviewed the RAA 2013. At least years ago, the interpretation that I got from my legal department back then was that those exceptional cases in which we need to do—well, as a registrar, we needed to do something exceptional with those data elements—shouldn't be an issue with the RAA 2013 as long as we keep logs, and so on and so forth.

But, again, I'm not a lawyer so I don't know if the interpretation of overriding those policy in that registry in exceptional cases when you have legitimate reasoning, it's going to be against the language that is proposed in 8.2. So that's my input.

DENNIS CHANG: Thank you. So that's what we tried to explain using the drafting error document. So what the recommendation was then, we noticed that DNSSEC element is missing. And leveraging Gustavo's past experience in dealing with this and implementing RAA requirement, he noticed, if you will, an inconsistency. And therefore we decided that this was not in the recommendation, but then it should have been in the recommendation and probably just an oversight because it's fairly technical to know things like that.

But this is a chance to hear from the IRT members whether we're reading that correctly. And particularly those members of EPDP Phase 1 Team who developed the recommendation and if there was any reason and purpose for leaving out the DNSSEC element intentionally.

Marc, happy to see your hand. Please speak.

MARC ANDERSON: Can you hear me okay?

DENNIS CHANG: Yes. Always wonderful.

MARC ANDERSON: All right, excellent. So I guess maybe two items, the concern Sarah raised and Gustavo's response to that. I'm going to not respond to that

and respond, instead, to your question about its omission—or maybe I should say lack of inclusion—in the Phase 1 Final Report.

So focusing just on that aspect of this, I know it's been a couple of years now, but I feel pretty confident saying that at no point during the Phase 1 deliberations was this specifically discussed. And its omission or lack of inclusion in the Final Report was not meant to in any way indicate that this should no longer be included or is not intended to indicate that it shouldn't be transferred.

So I think that this was just simply not something we considered during our deliberations, and don't think, as an IRT, we should be reading anything into its omission in the Final Report.

DENNIS CHANG:

Well, that's good to know. I really needed [that clarity]. It was really nice to get agreement from Thomas Rickert, too.

And I'll turn it over to Berry to speak. Go ahead, Berry.

BERRY COBB:

Thank you. I think there's a slight correction to Marc's intervention, but I do agree that there was no intention of putting forward a recommendation that these things—I call them things—should not be transferred. But I do recall in our data elements table small group discussions that we did come to the conclusion that the simple value for the field itself, whether DNSSEC was enabled or not, is not technically transferred. But there was a recognition that there were signed files, or

whatever DNS things that need to be transferred from the registrar to the registry, occurring in the background.

And so that's why it was excluded from the "transfer registration data" from a registrar to a registry. So I just wanted to ... We recognize that, and that's why it wasn't included in this particular aspect.

DENNIS CHANG:

Thank you, Berry. Sarah, go ahead.

SARAH WYLD:

Thank you. I want to thank everyone, especially Marc and Berry, for your help in figuring out how to approach this. And Gustavo, also—sorry—your e-mail is really thought provoking. Yeah.

So, really, what I'm thinking is, it was helpful to be reminded that because we already have this obligation in the RAA, like we already are required to do these things for all three of these different sets of elements—name servers, name server IPs, and the DNSSEC elements.

I'm still concerned because, like, how do we make sure that the registrar has the necessary ability to modify those elements in order to support the domain owner without creating a situation where registrars can simply refuse to provide a service that they are obligated to provide? Which is that zone signing service. I don't know how to bridge that.

So hopefully, as a team, we can figure it out. Thank you.

DENNIS CHANG: Gustavo.

GUSTAVO IBARRA: Yeah. So you mentioned my e-mail. I was wondering if this interpretation that when you tried to help, let's say the registrant by overriding those values, you are going against the requirements. My question, I'm still wondering if those registrars are not doing what is supposed to be the requirement based on the text from the RAA 2013 because the RAA 2013 also talks about transferring those elements to the registry.

And as I mentioned before, I'm not a lawyer so I don't know if the interpretation should be that one or a different one. I was wondering because, for me, the requirement is also there in the RAA 2013 already.

DENNIS CHANG: Thank you, Gustavo. Jody.

JODY KOLKER: Hi, guys. I'd like to take a step back from this just for a second. I've heard some people say that registrars are required to provide a signing service according to the RAA. I don't believe registrars are required to provide the DNSSEC signing service. What we're required to do is to pass the DNSSEC records that the registrant enters to the registry. That's it. We're not required to provide a signing service. We're only

required to provide the ability for the registrant to update these records at the registry.

So there's no technical part of this—as far as signing a DNSSEC record, as creating the keys that are actually needed or anything like that—required by the RAA. That's my first question. It was a statement, but I think it's more of a question.

So since we're not required to do that, what this requiring us to do is simply pass in the DNSSEC elements that the registrant has entered into the interface and pass them on to the registry. The same as if we would for name servers and name server IP addresses.

Now, if the registrant happens to put in an invalid DNSSEC key, then it's up to the registrant to fix that by deleting it, removing it from the interface. And then it's up to the registrar to remove it at the registry. Just as if they entered an invalid name server or invalid name server IP address.

I guess I'd like to start with that fundamental issue first. If something is broken at the registry, it's up to the registrant to fix it if the registrar didn't create the keys, didn't generate the keys, or anything like that. Is that correct? Thanks.

DENNIS CHANG:

That's a really good question. Gustavo, go ahead.

GUSTAVO IBARRA:

Yeah. Well, when I replied to Sarah, I was not thinking of that case. I mean, my understanding of the, let's say, usual Operational Procedures is that one. Yeah, you do provide an access somehow to an interface—to the registrant—and then provide information. And then you pass along that information.

I was thinking on the case, for example, when—I don't know—the registrant doesn't have access to the account anymore because the account was handled by the web developer but they have somehow evidence that they are the owners of domain name or the registrant.

And the domain is broken and they ask you to, "Hey, I need this domain to be working, these are the new technical parameters that my cloud provider, or whatever it is, is saying." And then you go and override the values that you have locally store with the new values that you were ... I mean that the registrant tells you during a phone call or something.

So I was thinking on those circumstances. And I think that that's the case that Sarah was explaining in her e-mail that what happens if you do that. If you go and override those values. Is that against the requirement or not? And I think that's the exceptional case that ...

Or at least that was what I had on my mind when we were discussing this case.

DENNIS CHANG:

Jody.

JODY KOLKER: Gustavo, who's "you" in that case? Is that the registrant or is that the registrar?

GUSTAVO IBARRA: Sorry, that's the registrar doing that overriding [to help] the customer. Yeah.

JODY KOLKER: Yeah. To me, DNSSEC elements might as well say "address." Might as well say "e-mail address." We're required to send the e-mail address. I mean, to me this is analogous to that. All we're doing is passing on the data that the registrant has entered. That's it. So requiring us to send it ...

Okay, we have to send it just like we have to send in a first name/last name if they enter it. And we have to delete the first name/last name if they decide to delete it and just put in a company name. I mean, it's the same issue to me. But I'm wondering if I'm of the wrong opinion here. Thanks.

DENNIS CHANG: It's analogous to accuracy. That's how it sounds to me, Jody, from what you're saying.

Marc Anderson.

MARC ANDERSON:

Thanks, Dennis. Great discussion. And thanks for flagging it. I feel compelled to echo Gustavo's caveat that I am not a lawyer here. But I'm thinking—after listening to Sarah and Gustavo and what Jody had to say and looking at the scenarios that Sarah put in chat—there are different scenarios where there's a legitimate need to remove the DNSSEC elements. Right?

And in those instances, those elements no longer exist. And the requirement is, if collected or generated, they must be transferred. And at the time where you have a need to remove those elements, then they no longer exist until new ones do exist.

So again, not a lawyer here, but I would think that this all goes into standard operational practices in that this does not look overly ... I don't know, I haven't delved into it that close, but I think you would be okay doing that.

DENNIS CHANG

Yeah, Marc, I understand. That would be my interpretation. Again, me also not being a lawyer, just a layperson but more of an engineer. If you've got it, you've got to give it to me. If you don't got it, then of course you can't do anything. And that's what the requirement is.

Sarah, go ahead.

SARAH WYLD:

Thank you. This has been a very helpful conversation. I want to thank everybody again for their time on this. The comparison to other data elements including the postal address or the name servers is a very

useful comparison to me. And I've been really focusing on a situation where the registrar is doing something to fix a problem. Right? And I think it's reasonable to consider that that fix is being done on behalf of the customer and with their authorization, although that may be implicit.

So I do agree that this is part of what I think Marc just called standard operational practices. And having had this conversation, I'm feeling a lot less concerned that we are precluding the ability to make that kind of change. Thank you. DENNIS CHANG: Okay. So I think what I'm hearing collectively from the IRT is that our baseline language should include 8.2.3. And we are going to go ahead and add 10 to our drafting error and explain as much as we can. We probably, maybe, need to add more to the explanation. And having heard you, maybe we could do that.

But I think that's the way we're going to go forward. So I'm going to make a note here for Sam. So that's done. Okay, thank you for that very, very helpful input in IRT discussion.

SARAH WYLD: Dennis.

DENNIS CHANG: Yes?

SARAH WYLD: We still have a couple of hands in queue. I think there might be some follow-up comments. Sorry.

DENNIS CHANG: Sorry. You're right. Thank you for alerting me. You're so alert. Who is it? Berry then Marc. Go ahead.

BERRY COBB: Sarah, please go ahead. I think you were before me.

SARAH WYLD: Thank you so much, Berry. Thanks, Dennis.

DENNIS CHANG: Okay.

SARAH WYLD: Thank you. I do agree with resolving the comment here. Would it be possible to add to the rationale document a little bit of information about this conversation that just happened? Because I know that will remain like a piece of the records of what we put together here. Thank you.

DENNIS CHANG: Yep, exactly. Yeah, we'll do that. Okay, that's good. We will do that now. Berry, go ahead.

BERRY COBB:

Thank you, Dennis. So just something for the group to consider here, and this may be right or wrong. But kind of two points. It sounds like we're putting this to rest, but the theme that was discussed in the policy deliberations and that I think we're trying to maintain here, though, is that there's this chain of custody about how data is being processed from collection to transfer to publication, which is Section 10, so on and so forth. So I just wanted to provide that little bit of a reminder as it relates to 8.2 here.

And I believe one of our other goals is to try to make this less confusing or as minimally confusing as possible when this goes to get implemented. As Gustavo rightly points out, 2.1.2 and 2.1.3 are in fact listed in greater detail in the RAA. And I wonder if it would just maybe help to provide in brackets or parentheses to point people to the RAA for details about how these are implemented so it may not confuse any requirement that's being listed here. And just offering it up as a suggestion.

DENNIS CHANG:

Thank you. Marc.

MARC ANDERSON:

Thanks, Dennis. I think Sarah and Berry's comments are kind of in line with mine. I wanted to say, in the drafting errors rationale, I would focus maybe ... I don't think I would want to say its omission was a drafting

error. Rather its omission was not intended to be an indication that it was no longer required. Right?

And then maybe to Berry's point, we could point to existing obligations and just maybe make a note that it's being included here for completeness' sake or it's just being included in this policy for completeness' sake. Just sort of a thought. I think that might be maybe a smoother way to dress this and include it in this document.

DENNIS CHANG: Yeah, good point. Now who's next? Gustavo.

GUSTAVO IBARRA: Yeah. So in response to Berry's comment, I don't know if the group has discussed what is going to be the end result for redlines to the RAA 2013 and the Registry Agreement based on this policy. But for example, I mean, I will be surprised if that requirement in the RAA 2013 is not removed if we have the text in the [inaudible] policy. Because again, [as the guidance] starts with implementing systems based on the RAA 2013 Registry Agreement, and so on and so forth, and all these policies. I really would prefer if the requirement is all in one place.

So it's just one comment about what's coming in the future or [when] the group is going to decide. But hopefully we can just have one place with the requirements and not requirements saying the same thing all over all these different policies and documents. Just a comment.

DENNIS CHANG:

That's a good comment, Gustavo. So, yeah. So the principle that we're working around is to create a policy that minimizes confusion and brings clarity. So when we have a requirement about a data element that is in one place and it's not distributed in multiple documents, I think that was the intent of Recommendation 27 and the wisdom of seeing that we have so many documents spread out where implementers have to refer to. And this is our chance to bring all of them at the same level when Recommendation 27 gets implemented along with this policy. And that's why we're doing all the RedDocs that we call them.

So the RAA, when we address that, we'll have to decide. And we'll, of course, propose to you what redlines should be required. But I am all for having the requirement in one place and not having it in multiples. So, yeah, we can't redline the RAA, though. Can we? It's not a [CP], but we do have to talk about the impact to the RA.

As we go ahead and implement, we have to alert the team what requirements are there still and what requirements are no longer there because this policy needs to supersede the requirements that are in the RA and RAA and other contracts. So we'll talk about that when the time comes.

But Beth has her hand raised. You have something? Beth, welcome.

BETH BACON:

Hi, Dennis. Thanks. My hand was raised similarly to Sarah's question in the chat. We all have the understanding that the consensus policy would supersede or essentially replace the requirement in the RAA. But I don't understand what you mean when you say we need to, I don't

know, explain what's there and what's not. Who are we sending that to? Or are we just including that in the report to accompany the consensus policy saying, "These are the areas where the consensus policy would supersede existing requirements"? And then eventually whenever the registrars get around to amending the RAA, obviously they are free and likely to remove or replace redundant clauses.

So I just wanted to understand the process there because, I mean, obviously you guys know what you're doing. But whenever we hear changes to the contracts, our ears go, "What?"

DENNIS CHANG:

And it should be. Yea, you're right. We do have to be very careful about how we go ahead and talk about the amendment to the contracts. A lot of things that we're doing have impact to the contracts. As you know, the data processing terms that you're working on with your [ham sandwich] team is an impact to the contract and we will have to look at that.

So how far does the IRT go and how much work that we give you as an IRT. We'll talk about that. We'll consider that together. But it is work that's in front of us. And what I'm trying to do is, as we do our work on building policy language, we think about that so that later on we do not make our work harder, but easier.

Anything else? No? Okay. So thank you for Item #2 discussion.

Let's talk about Recommendation 7. OneDoc in Section 8. Let's here. Here is OneDoc Section 8. So the last time we talked about it, I propose

that we delete 8.3, 8.4, and 8.5. And then we receive some good feedback and rationale about why we should not actually delete but maintain this language even though that contractual compliance enforcement is rather limited. So we want to talk about that.

So first, let me do this. Let me just reject my deletion—let me see if this works—so that it's easier for us to see. This is what we had before I crossed everything out. And what we had in 8.3, to start with, is the language that GNSO guidance has provided according to legal basis contained in the DPT required by Section 5.

So let's start here, and maybe we can talk about section by section. 8.3. This was at one time our language that we were considering as acceptable and we could adopt. But I didn't think the language on screen is what GNSO provided.

Okay, so let's do that. Let's make sure that we use the language that GNSO provided. So let's see. Is this the language? So I think, conceptually, what I'm trying to say is that we do now want to consider using the same language that GNSO has proposed because I didn't see anything wrong with that.

So think we have the support of everyone to use this language: "Provided an appropriate legal basis exists and data processing agreement is in place."

SARAH WYLD:

Dennis, can I jump in for a moment?

DENNIS CHANG: Yeah. Please do.

SARAH WYLD: Thank you so much. As we're discussing here, I wanted to point out that there is a meaningful difference between the text highlighted right now, "according to the legal basis" versus the now-suggested text, "provided an appropriate legal basis exists."

I think if we go with the text that shows up as a suggestion now, that is aligned with the recommendation and the instructions that we received from the GNSO and I think would resolve a lot of our concerns. Thank you.

DENNIS CHANG: Yeah. That was the intent. I think that's what we're looking for. We used the language that GNSO guidance has provided and then since it came from GNSO, I would think that everybody would be okay with that.

And I want to hear if there are opinions otherwise. Are there any inputs? I see Beth agrees. Roger's good with it. "Few weeks to review." Okay, Beth. Yes, of course we can. Yeah. Okay, Jody would like a few weeks to review. Yeah, please. I'm going to ask you as the next step then.

I'll add to the task list because there is a big change from trying to get rid of everything and then adding back. Now we have to look at every word and be okay with it and think about the potential variance in the interpretation. So one thing that ...

“ ... it can also be a joint ...” Okay.

So one thing that I do want to clarify ... Marc, maybe you should speak before I do. Go ahead.

MARC ANDERSON: Thanks, Dennis. Just a question. I think the change from Sarah on 8.3, I think that would also apply to 8.4.

DENNIS CHANG: Oh, okay.

MARC ANDERSON: Yeah. So I think it's the same text, “according to ...” I think that would be replaced with “provided an appropriate legal basis exists.”

DENNIS CHANG: Okay, yeah. I'll do that right now. Like that. Right? Did I do that right? Yeah, so 8.3 and 8.4. We're going to use the same language? The difference is that 8.3 is a “must” period. 8.4 is has a condition. That is, “if collected or generated.” That's the difference between these two sets of data elements.

Okay, we are talking about potentially changing the language from “agreement” to “arrangement,” but ... Okay. We don't want Thomas to die in the ditch anyway.

So for now, if there isn't a strong reason to go against any language the GNSO has provided, I would recommend that we keep with it. And if it's not wrong—#1, right?—in terms of in line with recommendation language and either case would work, we might as well use the same language that GNSO provided. Just easier for us, I think. And it seems to be pretty clear what it says now.

One discussion topic. Chris, go ahead.

CHRIS LEWIS-EVANS: Hi, Dennis. Hi, everyone. Yeah, just reading Thomas' comment, and I just wonder whether we want to say "data processing agreement" or "alternative data processing arrangement" or "equivalent data processing arrangement." Because, obviously, in some countries you won't have a data processing agreement. It would be called something else. So whether we wrap it up with the language that Thomas put in.

DENNIS CHANG: Okay.

CHRIS LEWIS-EVANS: And as Beth said, we've then also got a week to think about it.

DENNIS CHANG: Yeah. I will give you the couple of weeks to think about it more. More weeks, a few weeks. But we can see some options here. We can change the agreement arrangement, word change. Or we can add, as you

suggest, Chris, to the language “or equivalent/alternative such as data processing arrangement.” Perhaps that will work better. But I, too, need to think about it now that you have given me ideas.

Okay, thank you. I find you're chatting amusing. Thank you so much. So the one thing that I do want to make sure that we are all clear is in terms of compliance and enforcement and the clarity that it brings. So what this says is “provided appropriate legal basis.” Right? “Provided.” “Who” provides is the registry operator. Right? The contracted party ... This a transaction between registrar and registry operator, and between the two the condition is that they must have appropriate legal basis. Right?

So we discussed this report. What does the ICANN Org Contractual Compliance do in terms of enforcement? If you recall, we had a very strong opinion that we should not be putting Contractual Compliance in interpreting legality of that legal basis between two contracted parties.

So my understanding—and I checked with several people—the only thing that the Contractual Compliance folks here can do is, really, if there is any sort of a complaint or [inaudible] items or something that questions this, they're limited to simply asking, “Do you have legal basis?” And then if the contracted party responds by saying yes, that's about the only thing they could do. They cannot be in judgment of whether it's adequate or appropriate, even. So that is something that I think we need to be completely clear about. And thank you, Sarah.

And I want to make sure that you all understand it that way. But when you read this language alone, it could be interpreted that ICANN Org

Contractual Compliance Team is not going to be reviewing legal basis if called upon for this transfer.

Beth, go ahead.

BETH BACON:

Hi, Dennis. I just want to [say] that we made it super abundantly, crystal, ridiculously clear in the EPDP that from the contracted party side and ICANN Compliance side saying, yeah, that was definitely not ICANN's roll, nor should it be. But I will say that there's a registry-registrar agreement that has legal bases as well as purposes for transfer. That's the job of it. It has a DPA attached to it which does those things. So as long as that exists, then you're in compliance with this, and as long as those legal bases are appropriate.

And that's not something that ICANN Compliance enforces because that is, at this point ... And this was a lot of the discussion. This is a company-to-company agreement between registries and registrars, and each registry and registrar has different jurisdictional requirements. That's a decision made as companies.

So, yeah, I think that it provides the requirement that you have a legal basis, so I guess Compliance ... Everyone's going to yell at me now. I guess Compliance could say, "Hey, do you have proof that you've provided a legal basis?" And you can say, "Sure. I have the RAA. This is what we do."

But yeah, I think that it's already really clear that, ICANN, that's not their role. So I don't know that ... What I'm hearing from you is that you want that spelled out, but I don't think that we need to spell that out.

DENNIS CHANG: Yeah. I think you're kind of getting into my head about what I'm looking for, but let's give the floor to Marc Anderson first and have him speak. Go ahead.

MARC ANDERSON: Thanks, Dennis. I agree with everything Beth said and what you said before that, Dennis. I'll throw this out there. I don't want anybody to chase me with pitchforks over this one, but if there's concern about how this would be interpreted, maybe an implementation note sort of describing our shared understanding that this is between registries and registrars and that ICANN has limited ability to enforce that. Maybe that is something that could be done to address that.

DENNIS CHANG: Yeah. Thank you, Marc. Okay. Yeah, okay. That's a good suggestion. Thank you so much.

Let me see. Where was I? 8. Berry, you have your hand up. Go ahead.

BERRY COBB: Thank you, Dennis. Just building on what Marc said there, I think that the implementation note is probably a good idea, based on what Beth

said in the prior intervention that the implementation note would read that ICANN Org has no ability to enforce these since they're not a party to those agreements.

As most that were involved, or all that involved in the policy deliberations, this is directly connected back to Purpose 1A and 1B that, I believe, was the original compromise amongst the contracted parties. And to better delineate between the purposes for processing the data, Purpose 1B I believe, if I recall correctly, is more about allowing the registrant to establish their rights in the domain.

I think the reason why Org is asking this question is because, clearly, there's a "must" here. And if there's anything that's clear and up to this point in all of our agreements, "must" means that there's some sort of enforcement from Compliance, generally. And so I guess the concern is how this could be misinterpreted that Org should be doing some sort of enforcement.

Or to put it in practical terms, does the Contracted Party House foresee in the future where there is a disagreement about the appropriate legal basis or data processing agreements? And a contracted party would be coming to Org to help enforce these two provisions.

And hopefully you're going to say no, but I think, in general, we need to make sure that it's very clear to protect everyone in this regard. Thanks.

DENNIS CHANG:

Thank you, Berry. Beth.

BETH BACON:

Thanks, Berry. I understand where you're coming from, but I think that ... I mean, ICANN Compliance has in the past and will in the future be well within its abilities and rights to say, "This is not our call."

I don't love spelling it out in the implementation notes simply because we can't litigate against future possibilities. I think that we need to do what we can with what we have, and we can only make decisions based upon this language and the actions here. I don't love the idea of thinking about—because it keeps me up at night—concerns about the DPA on the RRA and that sort of thing.

So basically, I think this stands on its own. I think that ICANN, again, has in the past and will in the future say, "No. This not our jam. Please see ..." I mean, you can cite back to the just enormous body of discussion and work in the EPDP saying, "This is where it's a company decision. This is where it's enforceable by Contractual Compliance. And this how we do that."

I mean, you guys, they do it every day. Maybe some general clarification if folks are really, really concerned about this. But frankly, I think it seems pretty standard practice as to what we do now.

DENNIS CHANG:

Yeah. I know, Beth. So I understand that you probably are a group of people that thought this was clear from the beginning for years and have a hard time understanding why other people thought maybe it could be interpreted differently and what the worries are.

But we did spend an enormous amount of time thinking about this. I don't mind telling you. So if we can avoid that kind of confusion in the future with an implementation note, I think that I agree with the team here that that's probably a good use.

So what we'll do. We're going to take an action to go ahead and provide something. And you can give us input and feedback.

Beth, did you want to speak again? "Jinx." Okay, now let's see.

So we talked about 8.2, 8.3, and 8.4. It's the same baseline language with the appropriate basis. And 8.5 is different because it's a "may." And for now, I don't think that we need to change it. I've heard some good arguments and input that having a list of "may" documented data elements/requirements is actually very helpful. And just because it's not a contractually enforceable requirement, that doesn't mean that we should not have it in the policy language.

And looking through the other sections, we do have "mays." And we all agreed that was helpful, so we're going to keep that. But what I'm going to do is follow up with giving IRT and action item to review 8.3, 8.4, and 8.58 one more time as we have spelled it out right now.

And then on a particular note, if there are other points that are not related to this requirement we just talked about—specific data elements that you want to talk about—I think we will do that after we clean up this section and talk about specific data elements that you want to go ahead and consider again. So that's our plan for Recommendation 7.

Okay, now let's go to CL&D, one of my favorite policies. This is one of the policies that I worked on with some of you back years ago, if you remember.

But we were going through ... Hey, Gustavo. Do you want to share your screen now? I don't know whether we started this and stopped in the middle

GUSTAVO IBARRA: Sure. I can share my screen, yes.

DENNIS CHANG: Why don't we start over with the document from the top? Just lead us through it quickly and point out the particular sections that you and I talked about, about data element requirements. I want to really highlight that for the IRT, for some in-depth discussion. So stand by. Go ahead.

GUSTAVO IBARRA: Well, yeah.

DENNIS CHANG: We can see it.

GUSTAVO IBARRA: You can see my screen?

DENNIS CHANG:

Yes. Go ahead.

GUSTAVO IBARRA:

Okay, perfect. So I think that we went through this in the past IRT meeting and, again, following the idea of having two sections with one section describing what are all the requirements from a technology-agnostic perspective. Basically all the requirements that apply to any RDDS service, and a section that only applies to WHOIS and web-WHOIS. So that's the reason why you will see Section 1 and Section 2. And again, we're following the same idea of trying to clarify this text so that it's easier to read for implementers.

So this is Section 1. I don't know if you had a chance to go through the document, but one of the key elements that we want to discuss with the IRT—and I'm going to scroll down—is section 2.4. This requirement—and apologies, this is shown as a redline—is something that I would like to discuss with the IRT because it's a requirement that appears to be more in line with what the registration data policy is trying to accomplish.

So we don't know if the registration data policy is the appropriate place for that text or what can we do about it. Right? Because it sounds that, again, after we have the registration data policy, probably this policy is not the correct place for the requirement.

So the requirement is highlighted. You can see it right there. It's 2.4. And it's basically defining what is the value that needs to be displayed for the reseller. It says that in case there is an organization, it should be—sorry—in case there is a legal entity, it should be the name of the

organization. And if not, then it should be the name of a natural person. So that's one of the things that we'd like the IRT to provide feedback. What do you think about this? Dennis.

DENNIS CHANG:

Are there hands from IRT about what we're trying to communicate here? So in principle, what we're talking about is not changing any requirements. It's an existing requirement. But trying to see if we can take the "CL&D Policy" and make it "CL&D" only. And then move the "nature of reseller data element content" discussion or "content requirement." That really belongs in the Registration Data Policy where all the other data elements are defined. So it's an idea.

But I see Beth and Marc, so we'll hear from you. You know what we're trying to say and what we're proposing. I hope that's clear. But let's start with getting a common understanding of what is being proposed here.

Beth, go ahead.

BETH BACON:

Thanks, Dennis. And thanks, Gustavo. I think this is something that maybe we didn't ... We didn't really discuss resellers in the EPDP, if I'm remembering correctly. And so I think this is a good item to flag because it does overlap. I don't know how comfortable I am just taking a decision that wasn't discussed. Like taking a reseller field and making that [a] requirement—while it lives in CL&D and it has already obviously

been approved somewhere—and sticking it in another consensus policy related to another PDP.

I don't have a problem changing the CL&D Policy requirement if we think this requirement needs changes to conform to the requirements of the Registration Policy Consensus Policy, but I don't know how comfortable I am just taking it and picking it up out of one and dropping it into another. If that makes sense.

DENNIS CHANG:

Yeah, it makes sense. You got that. You got it really, really well. We are talking about moving home—right—from one place to another. They are still requirements. They remain a requirement. They have been a requirement. It doesn't change, but we're moving it and wanted to get your reaction for that. It would make the Implementation Team's job easier, cleaner.

Marc Anderson, go ahead.

MARC ANDERSON:

Thanks, Dennis. I'm squinting my eyes looking at the text. I think I have pretty much the same reaction as Beth. Yeah, I agree. We didn't discuss ... I have no recollection of discussing this during the Phase 1 IRT. And I understand that your desire is to move it from one location to another. I understand that you would not be changing the obligation at all or changing the text. Right? Just picking it up wholesale from one and moving it to the other.

I don't know. I get a little uncomfortable. I wonder if the value gained is justified by any potential confusion of the move.

DENNIS CHANG:

Yeah, well we're bringing it up because we felt a little uncomfortable, too. But it's like, often we know it's the right thing to do but we have to check ourselves. Is it within our charter and remit? In scope? Out of scope? Right? That thought.

Beth, do you want to speak again on this?

BETH BACON:

Yeah. Just for a second, Dennis. And I put a little comment in the chat. I understand the logic of this, and I understand that it's confusing. And I think we've discussed this before. I think, for sure, there are things ... Because we have a certain body of consensus policies, things overlap. Things change.

I think that a different effort would be to make things easier. Go through and do a general cleanup of this type of thing. And that would, I think, feel like that's a project on its own. Again, the logic of it all being sound—like, it's open, let's fiddle with it—I'm not comfortable with that because it's not within the scope of what we're doing or what were charged with.

DENNIS CHANG:

Mm-hmm.

BETH BACON: And we didn't discuss resellers and we didn't discuss this change in the EPDP.

DENNIS CHANG: I understand. Yeah, I didn't expect that you would. But I'm trying to read into the intention of Recommendation 27. So if I was asked, "Why do you do this and where is your authority anchor," I would point to Recommendation 27 as my authority anchor, as I like to call it.

But if those of you who had worked on Recommendation 27 in the EPDP Team and what you had envisioned when you wrote those recommendations, how far did you want us to go in updating the existing policies in line with the Registration Data Policy and the impact? If you felt that moving the requirements from one place to another ...

If you felt that that was not within the scope of what you had intended, I certainly want to hear that. And then also, another project, as you mentioned. So certainly, it's good to do. So that's why you're bring up potentially another project. So right now, I don't know what the vehicle for that is.

But trying to raise another project may be actually [a less situation]. Maybe it's something that we can do. But maybe that is something that GNSO could initiate and then we can react to as a separate activity which is not really a PDP. Right? Because we're not really creating a new contractual parties obligation by moving it from one place to another.

So maybe it's something that we can recommend to GNSO for action for them to consider.

So we have multiple ways to go about this, and you're doing exactly what I've asked and giving me your feedback. Thank you for that.

Beth, did you want to speak again?

BETH BACON:

I was just going to say two quick things. On Recommendation 27, yeah, I think that taking one thing out of a policy and putting it in ours, I think is beyond what this envisioned. I think it was to go through and identify where there are potential conflicts. And I don't see a conflict here. It just seems like a move of convenience. So I think that's where my head was at, at least, when we we're talking about Recommendation 27.

And then also, I'm also not suggesting that, out of this work, we suggest to the GNSO that they do a cleanup process. But for folks that do involve themselves in that process in GNSO and they have ...

I know that, Berry, you're the keeper of the GNSO work projects list. So I doubt that you want to put another thing on your list. But for sure, in future, down the line, I just think that it's not part of this work. But thanks.

DENNIS CHANG:

Thank you. I can count on you to keep us in check. You're great for that. Chris.

CHRIS LEWIS-EVANS: Yeah. I think I just wanted to agree with that Beth. I think there are two reasons. One, I think the Recommendation 27 was for us to update other policies and not to update the Phase 1 policy itself with other stuff that we might have found elsewhere.

And then, as Beth mentioned there, we really didn't discuss resellers. And people probably know my views. I'd like it to be made a "must display." And I think if we start pulling stuff out of other consensus policies that are now getting old, when they come up for review, those bits won't be discussed and we maybe miss an update for some of them that do need.

So I think it's probably ... Whilst at first look it make sense to put it in a consistent place, I think it is actually probably making more problems down the road. So, yeah, I think not moving things around would be beneficial. Thank you.

DENNIS CHANG: Thank you. Let's see. Anyone? Gustavo, you have your mic open. Do you want to speak?

GUSTAVO IBARRA: Yeah. I also would like to hear from the IRT, how do you feel about, for example, Section 2.2? This section is basically finding that the registration expiration date and reseller are optional data elements which are already covered by the Registration Data Policy.

Do you feel comfortable with that change in which we are suggesting to delete this section? Because, again, if I were an implementer and I go on the Registration Data Policy and it says, "Yeah, these are optional," and then I came to this and it says, "Yeah, these are optional, but you need to follow this qualification, and so on and so forth." It's really complex to try to understand what is the intent.

So our suggestion is let's, yes, remove 2.2. The whole thing is already covered there. So I would like to hear from you guys.

DENNIS CHANG: Marc.

MARC ANDERSON: Thanks, Gustavo. Maybe I'm just reacting to what you asked now, not having given this a whole lot of thought. But I find your argument compelling. And this does more cleanly seem to fit into the mandate of Recommendation 27. Right? If this has clearly been accounted for in the new policy and is redundant in the old policy, then it does seem more in line with the intent of Recommendation 7 to make this change here.

I'll caveat that and say that is just my initial reaction based on you teeing it up. But I do find your argument compelling.

DENNIS CHANG: Thank you for that input. That's very valuable to hear that. Chris, what do you think?

CHRIS LEWIS-EVANS: Again, I'll just reapply Marc's caveat, not having thought about it much. One of the things I can maybe see with removing it here is that it makes 2.3 and 2.4 make less sense. So, yeah, I wonder if we cause problems within this policy by removing it that way. That's just an initial thought. Thank you.

DENNIS CHANG: Okay. Anybody else? Okay, yeah. Gustavo, so one thing that I noticed is that maybe we did have this action item to review the CL&D for a while, and it seems like maybe we needed to point out, specifically, things like this. And this was valuable, I think.

So what we'll do is to give you more time. As you noted, I had the original due date on the 19th, a couple of days from now. But I think I can see the need for longer review. So please go ahead and think about this. And I think that your reaction to 2.4 is pretty strong. So that was helpful.

2.2, we'll have to think about that. Maybe there is something that we need to do rather than just delete. Maybe there's an alternative.

And then, Gustavo, is there anything that you want to point out on the CL&D you haven't done yet? So this is your chance. Let's get the IRT Review focused on those items.

GUSTAVO IBARRA: I think that I got the feedback that I want regarding what to do with redundant text. I think that we can accomplish maybe the same objective saying something along the lines that those [data elements are] described or defined in the registration data policy, pointing to the registration data policy so that the reader can follow or can go and look at what is the treatment for those data elements. And then we can have the requirements regarding the position in the WHOIS output. Yeah, let me think about that. I probably can do something [inaudible].

DENNIS CHANG: Yes. [inaudible] Do me a favor and go down to the bottom of the document. We did add things for Jody.

GUSTAVO IBARRA: Oh, yes.

DENNIS CHANG: Jody made a good suggestion. So we did that and I don't know if Jody had a chance to look at this. We added the examples for redacted versions.

GUSTAVO IBARRA: Yeah, it will be great if the IRT can also take a look at this one.

DENNIS CHANG: We thought that was a good suggestion. It's kind of nice to actually see it in front of you what it looks like.

So Marc has a hand up. Go ahead.

MARC ANDERSON: Thanks, Dennis. I just want to say I hadn't noticed this, so I haven't had chance to look at it. But thank you for doing this. I look forward to reviewing it and I think it's ... Yeah, I think that was a great suggestion as well. So thank you.

DENNIS CHANG: Okay, good. Yeah, I definitely have to give you more time to review it. Thank you so much for the IRT's support on this. Very helpful.

So let's look at the next one. Do you want to go through that? You have one more? Gustavo, do you want to share?

GUSTAVO IBARRA: Yeah. So following on Marc's suggestion to have an advisory instead of trying to redline the old one, this the first draft of what the advisory could look like. And, yeah, again on this one, you will notice that there are not redlines. It's just new text. So it will be great if we can get input from you guys.

DENNIS CHANG: Yeah. Just give us some input. I mean if you think this is okay, just say something.

GUSTAVO IBARRA: Yeah. In this one, you won't see two sections because the advisory is only about WHOIS and web-WHOIS. So, yeah, that's an important note there.

DENNIS CHANG: Yeah, that's understandable. Right?

GUSTAVO IBARRA: Yeah.

DENNIS CHANG: Okay. So we talked about this. So if you didn't hear the last discussion when we were looking at a redline version, then it probably makes less sense to you. But we agreed with the input that we got to make a clean one. This not a consensus policy we need to redline, but it's simply an advisory so we can issue an advisory and retire old ones to make it clean. So that's the approach we're going with this.

Marc, go ahead.

MARC ANDERSON: Thanks, Dennis and Gustavo. Just real quick. And sorry if I missed this, but do you have a date by which you would like to get feedback?

DENNIS CHANG: Let's look at the IRT task list. 22nd was the due date. That was the due date. So, you know, it's our workbook.

MARC ANDERSON: If I could, wasn't that the due date for with the old redline version?

DENNIS CHANG: No. We [issued] another task.

MARC ANDERSON: Okay.

DENNIS CHANG: It's task #177. That's the last one.

MARC ANDERSON: Got you. Then I apologize. I completely missed it. Can I maybe get another week tacked onto that?

GUSTAVO IBARRA: Sure.

DENNIS CHANG: Yes, okay. I'll revise the due date on that one, too. Okay. So is there anything you want to point out to the IRT on this stuff, Gustavo? Otherwise, I think it's pretty clear. To me it was pretty clear. It's actually so much easier to look at this than the redline. This is just about the WHOIS data, WHOIS version anyway. It's a lot easier to think about it one way and read it in another way.

So that's it then. We will move on to the last agenda item. And that is the drafting error rationale change on item 3.3. So let me share my screen again. I think probably that's what Gustavo was trying ...

So it's this one, Agenda Item #6 and 3.3. Let me see. We did not get any response on this. So if you're okay with our changes, then we can clear this up. This was a discussion a while ago at the IRT session. Roger and Felix changed, and then coming to an understanding of how it's actually being used. And we are just simply documenting what we heard. And there was a helpful discussion.

Marc.

MARC ANDERSON:

Thanks, Dennis. So I like the clarification. I think that's helpful and I think that accurately describes the use case and the scenario. I don't see Theo on the call, but I think he was sort of helpful in describing that to us.

DENNIS CHANG:

Yeah.

MARC ANDERSON:

I am worried about pitchforks again, but I wonder if that is better for an implementation note than the drafting errors document.

DENNIS CHANG: Oh, okay. I think I understand what you're saying. So let's just get everybody on the same page. So I think I understand what Marc is talking about. So let's see if I'm right. And Marc, you can confirm.

You're saying that this drafting error document is a temporary document. It's a working document that will be published on the IRT Wiki after all, but it will not be part of the policy, for example. So any kind of important implementation note—note wise for the implementer—is and should be reflected in our implementation notes. Right? So that is the concept. Did I get that Right?

MARC ANDERSON: Yes, you did. Thanks, Dennis.

DENNIS CHANG: Okay. I want to hear about that, too. So I was thinking that, too. Is there anything in this document that we really need to have in the policy document OneDoc? But then I'm not sure if this is where we can use the implementer's view with the eye that you ...

You know, you have to assume when the time comes to implement that they're not going to be looking at this drafting error document.

So, okay. On that note, let me think about that and I would like you to think about it. The words are okay, but now the consideration is ... And we don't have to do this at this time or all at once. But anything on this document and reviewing the implementation notes.

Is there anything that is worth mentioning here? So the other thing that maybe we neglected to mention is in the Addendum #1. When we were talking about adding this addendum for WHOIS, we did add a note here for ... Gustavo added it us to make clarity. I haven't seen any comments from you, but please do look at them and let us know if that works and [alleviates] your concerns.

So what I would like to do is wrap this session up. There's a lot of good, interesting conversation/discussion and very helpful. And I want to now open the floor for any of your comments. Anything else? Any other topics that you'd like to discuss before we close?

Otherwise, you'll get e-mails from me on task assignments with the revised due dates per your request, to make it clear. And then we'll work on some additional note language. And when that gets ready, we'll assign that as well.

But do remember that ... Use this document. You can always tell what your homework is here. Sam does a good job in highlighting things that are outstanding for us.

Okay then, thank you very much. We will wrap it up here. And thank you, Roger. Thank you, Jody. Sarah. Thomas. Nobody ditched. Nobody died in the ditch today. That's all good. We want you all back on the 1st of December. Bye now.

ANDREA GLANDON:

Thank you. This concludes today's conference. IPT Team members, please stay online.

[END OF TRANSCRIPTION]