ANDREA GLANDON:	Good morning, good afternoon, and good evening. Welcome to the Registration Data Policy IRT meeting being held on Wednesday, the 1st of June 2022 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 Chang. Please begin.
DENNIS CHANG:	Hello, everyone. This is Dennis Chang reporting in from Los Angeles right now. Hopefully, I can do this next time from Hague in a couple of weeks. I'm excited to see some of you who will be there. I'm getting real nervous about what I'm hearing in the Amsterdam airport. Some people were sharing with me what's happening there. But maybe with luck, that are all getting resolved in a couple of weeks.
	So welcome, everyone. This is our IRT session. This is the one before the ICANN74 meeting. So I'm going to talk about the ICANN74 session a little bit. I've been planning on what we should be doing there. As I understand, it's a one-hour session. We'll talk about the RDAP Profile. Roger is going to give us a quick status and we'll see how they're doing.

Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.

I have a special guest today. His name is Cyrus. Cyrus, come on video and say hello to the IRT. Tell us why you're here and what are you going to do?

CYRUS JAMNEJAD: Sure. Thanks, Dennis. Hi, everyone. My name is Cyrus Jamnejad and I work in the Global Domain Strategy Team with Teresa, Russ, Andee Hill. I'm here today to talk a little bit about the data processing specification, the implementation of much of the work that went on in EPDP Phase 1 [waiting to] data protection agreement.

So just going to give you a status update on what we and the contracted party negotiating team are working on and how that's going and answer a few questions. So I look forward to speaking with you at the designated time. Good to see so many friendly faces.

DENNIS CHANG: Thank you. Welcome, Cyrus.

CYRUS JAMNEJAD: Thanks, Dennis.

DENNIS CHANG: Yeah. So let's get on with the agenda. As we normally do, we have a lot here. And we don't have to finish all of them. We can continue with our next IRT meetings. But I have to say that I'm really, really happy to see a lot of progress recently. I heard leaps and bounds from somebody on

the IRT. Now that I look back and seeing what's been happening recently, I do see that, especially after our Rec 12 supplemental recommendation that we got from the Board in March. We've resolved that already and we're moving to close out the rest of the items to go to public comment. And for ICANN 71, this is the ICANN71 session.

ANDREA GLANDON: 74.

DENNIS CHANG: 74. Sorry. Andrea, tell is a little bit about this.

ANDREA GLANDON: Yeah. So we will be meeting on Monday, the 13th of June for a one-hour session. The one thing that I want to make sure, everybody particularly who will be there in person, you we need to get registered and add this to your schedule. As you can see, we're not in any way about to run out of seats but we want to make sure that everybody who wants to join is able to join, particularly in person. So that's all for now.

DENNIS CHANG: Yeah. Amazon sounds like a big room. Is it?

ANDREA GLANDON: I think we have 80 spots in person. So that's a decent sized room for us.

DENNIS CHANG: If we can't fit in Amazon—

ANDREA GLANDON: Yeah. We should be fine. But I still want to make sure everyone registers because they are turning off in-person registration, I believe, after June 8, so you want to make sure that you're all registered.

DENNIS CHANG: June 8. Next week, Thursday?

ANDREA GLANDON: Next Wednesday.

DENNIS CHANG: Next Wednesday, oh. Okay. That's a good day to remember. Thank you. So perhaps a reminder, on June 8, that'll be nice, especially for those of us, the IRT members who are not here. Thank you for that.

So we talked about ICANN74. About the 74 sessions, what I plan to do is do the same thing that we have done. So it's not going to be anything super different. We'll go over very, very quick. You've seen me do this. And probably anything that they haven't seen before or point out, take a moment. But I'm not going to spend a lot of time for this for the public. It's mainly for us to make progress on our policy and us getting to the public comment is most important. That's what I'm going to prioritize and focus on. Next item is RDAP Profile. So, Roger, if you're here, please give us a status. How's it going?

ROGER CARNEY: Thanks, Dennis. I think Marc is on as well. Several of the RDAP people, I think, are on here. I'd say that we met last week, I believe, and we had a good meeting in the RDAP Working Group. We have two more meetings, I believe, between now and the end of June. The goal coming out of it was that we would have something to provide this group with at least the first draft. I would say not first draft but the good draft of the changes coming to the Profile. This is a little bit more complex than just marking up the Profile itself, as we as we are working with the IETF as well to get the standard for this put into place through the IETF.

So we've got three documents, we're kind of trying to balance right now, the RDAP Working Group, one with the IETF and the Technical Implementation and the Profile with the RDAP Working Group. So the goal from the group was to get a good draft. Again, draft is probably not fair. It's a lot further than that to this group before the end of June. So I think that that's the goal. Again, we have two more months and we already have some good things in place. We just had to wait some changes with the IETF draft late last week. So I think we're in shape. This group should see the updated Profile within the next few weeks before the end of June. I invite any of the other RDAP Working Group members if they have anything to say. Marc?

MARC ANDERSON: Thanks. An excellent summary, Roger. I'll just add, I think that I gave it a once over last week and I think it's in pretty good shape. Near final, I would even say. Most of the remaining work is around redaction. We've

had significant discussions around there. I don't need to rehash all that. I'll just say the reason it's still taking time is that we're dealing with a new IETF standard on how to handle redaction. I think the time we're spending now sort of talking through these issues will ultimately result in a better IETF specification and a better profile for implementers. Plus one to what Roger said and I just say I think largely the work is complete other than finishing up with what needs to be done for this new redaction specification.

ROGER CARNEY: Great. Thanks, Marc. Thanks, Dennis. I think that's all from us.

DENNIS CHANG: Okay. Thank you, Roger, Marc, and the RDAP Working Group. What I'd like to do is for the ICANN74 session, give you maybe another couple of minutes to talk to the IRT, especially because it's an open meeting public audience, how the RDAP Working Group is doing and what they're doing. And if you can show us anything at that time, that'd be great. But even if even you don't show us, I'd like to add that to the agenda. So think about that.

It's good to hear that you're targeting end of June. I think that'll work nicely with our public comment that we have committed to deliver on the third quarter of the year. Right now, we're targeting August for our public comments. So if we receive it at the end of June, we'll have a chance to look at it. I seriously doubt whether the IRT body we're going to have any changes that we're really needing from the Working Group. It'll give us a chance to talk if we need to, and then it'll be ready for

public comment. So that's great to hear. Thank you so much for the team.

If you're not really involved, it's hard to appreciate the complexity of what you're doing. But we're so fortunate to have a community team that is devoted to working alongside of us. Otherwise, we would be having to do all that work. And with our bandwidth, it will be a challenging thing. Marc Anderson, go ahead.

MARC ANDERSON: Thanks, Dennis. I raised my hand to respond to Alex in chat. But before I do, let me just say thank you for that, Dennis. That was really nice for you to say. I'll just say thank you.

Alex, responding to your question, our goal on the RDAP Working Group is for that work to fit into the timeline. So we've talked about that a couple of times within the RDAP Working Group. We do not want to be the long pole in anything. So our goal in the RDAP Working Group is to make sure our work fits into overall timelines.

DENNIS CHANG: Excellent question. The implementers of CPH team early on in the project, that's before Alex joined us, they've considered in detail how long this implementation would take. There was a lot of thought that went into it. That's how we have established the 18-month implementation timeline that we are using in our timeline. That's what got us to the end of 2024 for our effective date. As you'll see here, I wrote in we're going to start public comment in August 2022 and we're

EN

on target to do that. We're trying to get everything ready so that we can hit it. You know that for us to publish public comment, there is a lot of ICANN Org internal processing that we have to do. Isabelle is here to talk to us about the public comment and she will talk to you a little bit about or the internal workings that is required. There is a sort of a machine in process that the whole team—and Andrea is part of that public comment team too—that's going to help us. So we have a lot of help, but it does take time.

So thank you for that. Then what we'll do is we're going to go to our DPS tutorial. I'm glad to see Alex here because, Alex, you asked for it, you got it. You wanted someone to come. I think you've missed the introduction from Cyrus earlier when he introduced himself, but here we go again. I will turn it over to Cyrus. This whole thing was prepared for all of us. We're all learning in the process. I'm learning a ton about data processing, data protection, what's the difference between processing and protection, and DPA have more than one definition. What we're doing is really a DPS. I was getting really confused, but now we're cleaning up all the other things that we had to do. I'm turning my attention to this particular item on our project. I think we received GAC advice to the Board. The GAC mentioned they recognize that this is the critical path, and then they had asked the Board to support the ICANN Org. I'm happy to report to you that we have been getting great support from everyone. Of course, this DPS is a document that will be—why don't we do this? I will let Cyrus speak from here. And then what I like to do is have him go through the whole thing because it is complicated but there are parts of it that are interrelated. So just listen to him, giving you the tutorial all the way to the end. Then we'll open it up for

questions and we'll take as long as we need to while we have Cyrus here, not to mention the other experts who have joined us. So, Cyrus, go ahead and take it away.

CYRUS JAMNEJAD: Thanks, Dennis. Yeah, hopefully, it won't be too complicated. But nice to see everyone again. Just once again, my name is Cyrus Jamnejad and I'm on the Global Domain Strategy Team. I'm part of the team that's working with our contracted party house friend to implement the data protection agreement requirements. As Dennis mentioned, that's our what we're calling the DPS, which we'll get to. So thanks, Dennis.

Slide two. The purpose of the presentation is broadly just what I said. And what Dennis has said, so many kind words, but to help this team understand what is it we're doing, why we're doing it, and what's happening with it, broadly speaking? So we can go on to the agenda, Dennis. Next slide.

The presentation today will be sort of separated into three parts. The first one is briefly just what is the impetus for the work that we're doing? Where do these requirements come from? What are the legal and policy requirements and why are we doing what we're doing? Next section is what is it that we're doing? It's this data processing specification. So I'll get into some detail about what that includes, what that doesn't include, and what it means generally. And then we're going to talk about how it's going and where we're going next. So, yeah, stick with us. Hopefully, it's not too complicated and we'll get through and

EN

clarify any questions that maybe you guys have all had. All right. Thanks, Dennis.

Just as mentioned, why are we doing what we're doing? Well, as most people know, there are data protection agreement requirements in many jurisdictions, incorporated into law recently. More and more coming each day but in the last several years, this of course has been a hot button topic. So most jurisdictions do require something, and those of course vary by the local laws and the jurisdictions themselves.

GDPR is the most probably famous data protection legislation, and that was largely credited for the development of the EPDP, and that's sort of why we are doing this. But I want to really reiterate that that's one of over 130 different data protection laws that are in existence and more of course are coming and being refined every day. So if you go on to number six, Dennis, please. Next slide.

In addition to overall what's happening in the world, more specifically and more concretely for us here, what does the policy direct us to do? These are EPDP Phase 1 Recommendations 19 and 20, which are the sort of the meat of why we're doing what we're doing. The highlighted words, ICANN Org negotiate into required data protection agreements, as appropriate, with the contracted parties. It talks a little bit about what's required. So specify the responsibilities—Dennis, can you go back? Yeah, thank you—and the processing activities that occur between those parties. Now, we can go to the next one. Thank you.

Rec 20. This is just to further refine, which is to include data processing activities and who's responsible for what and memorialize them in

agreements. All right. This you probably have seen, I'm sure. You're more familiar with than I am. So we'll jump down to the next one, slide eight.

Okay. So as Dennis mentioned, he hears words data protection agreement, data processing specification, what do they all mean? It's very simple. Data protection agreement is an agreement in which two parties legally agreed what rights and obligations they have vis-à-vis each other, relating to the protection of personal data for their data subjects. So, what we're doing is, with that in mind, we are implementing this in as the data processing specification, which will be a specification to be added to the existing contracts with registries and registrars. That's the RA for registries and the RAA for registrars. So a data protection agreement is required and we are implementing that as our data processing specification to the contracts. This should be hopefully not too controversial there. All right. If we could go to slide nine, please.

That was just the background of the why. Why are we doing this? Now we can get into the crux of the presentation which is what is it that we're doing? We are doing making this data processing specification, as mentioned, specification to the existing contracts. The purpose of this activity is to facilitate the ability to process data and comply with law. That's why we're all here today. The provisions within our contract are of general application that they apply regardless of how any of the parties are qualified and in different regulations they're listed as different things. You might have heard words like controllers, processors, personal information handlers, depending on the jurisdiction. So this will be required, as mentioned, the policy, if a

EN

contracted party determines that data protection agreement with ICANN is necessary for the parties processing pursuant to the policy in order to comply with applicable law. That's in One Doc, Section 5, which I believe, Dennis, you will be getting too after this presentation. All right. If you could advance to the next one.

So what does the DPS have? What does it do? Well, it requires each party to comply with law. So what does that mean? Well, there's information related to network security and protection of the registration data itself, how to notify when there's breaches, and how to engage relative to engagement with the subjects and requests that come to and from the subjects for managing their data. Additionally, we may see for cross or data transfers out of the jurisdiction to other jurisdictions. What the DPS was not designed to do was to create requirements beyond those that exist under applicable data protection laws. All right, Dennis, we can go to the next one.

One section that you will see in the DPS as complete is this roles and responsibilities. And what roles and responsibilities within the DPS are the sort of factual circumstances of the process. That's the who is doing what? What exactly is happening with the data? Where is it going? Some examples of that are registrars collecting data from registrants, transfer of the data to registries, to data escrow, to ICANN, etc., and where ICANN sends the data and how they move. So basically, just a mapping out and the charting of who does what and where, and really codifying that and getting that written down so that it's known. All right. If we can go to slide 13.

All right. Another section included would be the purposes for processing. This one, you probably have all seen it, of course. This is coming from EPDP Phase 1 as refined in Phase 2 report, Section 22, which is the updated Purpose 2. Basically, just why are we doing this? Another point to mention is DPS doesn't grant rights that don't exist in the agreements themselves, just as it doesn't supersede or do anything with other laws. It doesn't require any new data processing itself that's not already required. It doesn't, for example, allow third parties the ability to ask ICANN for data or compel contracted parties to disclose data or allow ICANN or to do new means or methods of data accuracy assessments. So if you can go to the next one.

That's more or less what's happening in the DPS. Where are we now with this? Well, we've been negotiating for quite some time and a lot of it has been done. Much of it is finalized with ongoing discussions on some remaining topics. We're still in discussion and hoping to engage soon at ICANN74, The Hague. We have some meetings scheduled. So I hope to be able to address things there. In terms of a concrete delivery date, unfortunately, as negotiations are ongoing, not something we can confirm/commit to now, but our contracted party friends and ICANN are working hard to do this, and we're working toward a resolution. Can I ask you to go to the next slide?

The FAQ, I think, hopefully acts as a bit of a summary and sort of what does this mean? The first question about the timing just mentioned there. So another one is I know many people hope to see it itself. So once we get an agreed upon draft document, we do intend to share with everyone's so they can see it, and that will be considered at that point.

Numbers three, four, and five help clarify or frame what the DPS is and what it isn't. Does it, for instance—number three, let's look here—dictate which party shall make the decisions on data disclosure? That's not what it does. Those obligations and those rights are already existing on law. So nothing that we say here will change that. If you could go to number four or the next slide, Dennis.

So does it define or modify legal basis for action? No. Does it change the policy itself? No, it doesn't do that. In the negotiations and deliberations that we put down in this DPS, will that change or impact any other policy? No, we don't believe that it will. I hope despite the many worries—and, Dennis, I know a lot of terms flying here and there—hopefully, it's sort of straightforward and simple and just an understanding of what it is, what it kind of does, and what it isn't. So hopefully, that helps. As mentioned, once an agreed upon draft is ready, we fully intend to share it with everyone. And hopefully, we can do that at some point in the not-so-distant future.

All right. I think that's it, Dennis, if you want to jump on in. That was short and sweet.

DENNIS CHANG: Yes, thank you for that, Cyrus. You talk fast. It's a good thing that I heard you before. Yeah, that's fine. We don't have interpreters. But if you were on the ICANN meeting, you would have definitely got a caution there.

Oh, Alex has a question. I'm glad that he raised his hand. Just so that you know, the FAQ, I asked Cyrus to add these FAQs because these are

the questions that I have, because they are important to me in relationship with the one that we're working on. Most importantly, I wanted to know, it's like the RDAP Working Group providing profile, I wanted to see how that would impact us in the One Doc in our policy language. The same thing with this. So these are important questions in terms of getting the project done and weighing the options that I have, the dependencies that we have and we can reconsider. So I did this mainly for me, but I thought that we would just share it with the IRT. So if you have other questions that you have, this is the time to ask, and then we might just add them to the FAQ because it's likely that others following us will have the same question. I will turn it over to Alex, welcome.

CYRUS JAMNEJAD: Let me just interject, Dennis, that's a good point. If there's something that we can't answer here, we can take it back and come back with a response for it for those who may have a question that we can't quite nail down for you. Okay. Go for it, Alex. Apologies.

ALEX DEACON: No worries. Thanks so much for this update. It does fill in a lot of gaps that I had had over the past two or three years as to what's going on. But I do have a few questions. But I think the most important one is regarding Rec 20. Can you confirm that the data processing activities and responsible parties outlined in Rec 20 have not changed or will not change?

CYRUS JAMNEJAD: Yeah, that's my understanding. One second. Let me just pull up something right here. The draft DPS currently in its form, it sets out who does what, exactly that. So it really just defines exactly who is doing the processing of certain elements where that data is going and kind of tracing that for the existing data work. We don't expect that to change at all.

ALEX DEACON: Sorry. So the who does what as currently defined in Rec 20 is still the same in your draft DPS, nothing has changed there? Nothing has been modified?

CYRUS JAMNEJAD: One second. Let me just pull up something here. What it is, yeah, it's a factual description of the processing itself. And whether that's different than the exact language in Rec 20, let me just verify that really quick for you or see if I can get that.

ALEX DEACON: If you need time to do that, that's fine. I mean, this is the core of Rec 20 is for us to confirm or for someone to confirm that our assumptions that we laid out in Rec 20 have either been confirmed or have changed. So we need to know one way or another, are those assumptions correct and will they move forward into implementation, or have they changed? And if they have changed, then I think we'll have yet another job ahead of us to determine what impact those changes may have. So I think this is a pretty important step here in understanding kind of

what's going on, what's changed, and what impact that may have. But yeah, I appreciate this may not be a simple question but I think it's a super important one.

CYRUS JAMNEJAD: Thank you. Absolutely. Let me take that back and I'll get a response and we can get an answer to that. That's absolutely understandable.

DENNIS CHANG: Alex, can you help us with maybe getting a better understanding "assumptions"? Are those "assumptions" things that are written down in the final report that we can point to and quote, yes or no?

ALEX DEACON: Yes. Rec 20 lays out the data processing activities and responsible parties that the Phase 1 Policy Team used to build the policy. And all of those are outlined in that big table in Rec 20. So Rec 20, essentially asks that these assumptions that we made when setting the policy be confirmed and documented in the relevant data protection agreements. So the question is simple. Can we confirm that what's in that table in Rec 20 is correct and solid and hasn't changed? Or if there has been a change, we need to know exactly what has changed—I would like to know why also—and then we need to determine what impact that may have on the policy that was built on these assumptions. But yes, to answer your questions, all of our assumptions that we made in the Phase 1 policy setting is outlined in detail in Rec 20.

DENNIS CHANG: What I'm hearing is this is more than the recommendation language itself. We need to go through the table to make sure that there were "assumptions" that we can validate. So it's not as straightforward to me but I think that's a good homework for us. Let me see if we can capture the assumptions in writing. So let's just say there's five assumptions. We'll just list them out, one, two, three, four, five.

ALEX DEACON: No, no, no, Dennis. You're complicating this. The recommendation is clear. It says the EPDP team accordingly recommends that the inclusion of the data processing activities and responsible parties outlined below. So that outline below is that table in Rec 20. So I don't think this is a recommendation for the IRT. I mean, it could be. I think it's a recommendation that those that are drafting the DPS needs to answer. Are those data processing activities and responsible parties outlined below, are they confirmed or have they changed? That's simply what the recommendation says. Because the IRT doesn't have access to the DPS yet and hasn't been involved in the negotiation of the DPS, I think that's the job for those individuals in ICANN Org that are in the thick of defining what those DPSes are. I don't think the IRT can really do that.

CYRUS JAMNEJAD: Dennis, you can go to slide seven, which has the pertinent language that Alex was talking about their Rec 20 and the directions related to that table outlined below. Yeah, that's right.

DENNIS CHANG:	Alex was talking about Rec 22, I thought. Okay. Is he talking about Rec 22?
ALEX DEACON:	No, Rec 20. I was talking about Rec 20 specifically.
DENNIS CHANG:	Okay, okay.
CYRUS JAMNEJAD:	Rec 22 I think clarifies the purposes for processing. Updated Purposes 2.
DENNIS CHANG:	Let's see, is anybody here? Is Beth here, for example? Yeah, Beth is here. Beth, do you have comments on that? Is there a view from your part whether Alex's question is a yes or no answer? Or is that something that the team with Cyrus and you, your whole team, has to go back and take another look and come back with an answer. I don't know. I'm okay either way.
BETH BACON:	Yes, Dennis, I'm not comfortable answering that question because it is an open negotiating document right now. So I understand I don't know that we would depart from … I understand the desire but I think as we discussed previously, we will show the final draft to the IRT. But at the moment, it's not agreed so I'm not comfortable really saying—I don't

want to go there, certainly not on behalf of the contracted parties negotiating folks. Thanks.

DENNIS CHANG: Okay. That's fine. That's fine. So what is the action? Cyrus, we're going to go back and take another look in the huddle and come back with a yes or no to Alex's question?

CYRUS JAMNEJAD: Yeah. Yeah, exactly.

ALEX DEACON: Just to be clear, this isn't an Alex question. This is a requirement in the policy. So I'm just asking that the requirement that has been agreed to in the policy just be followed through.

DENNIS CHANG: Yeah. I know. I know, Alex. I know what you're saying. It's my job to make sure that that's a definitely yes, the Rec 20 has been implemented aligned with the recommendations language. And if I cannot say that with certainty then I didn't do my job. So I appreciate you raising the flag for me. To be honest, I'm not quite sure how to understand the question.

CYRUS JAMNEJAD: I think it's just did anything change from Rec 20? If so, why? And what does it mean? I think is basically the crux of what he's asking.

DENNIS CHANG:

My whole point there is that if we did—Alex, I think this is maybe a good way to think about it for me. There are cases where we have changed recommendations, right, with the support of the IRT, and we call those drafting errors, and we'll look at one today. So if this falls into one of those, we will definitely have to document that and share it with the IRT. So I think I have my bearing. Let's see. We'll take an action so that we'll maybe talk about it later again. Any other comments, questions? I see a hand. Who is that? Alex, go ahead.

ALEX DEACON:

I'm curious to better understand how this is all connected in terms of finalizing the implementation and going out to public comment. The Rec 19 is pretty clear. It says, "The EPDP recommends that ICANN Org negotiates and enters into required data protection agreements as appropriate with the contracted parties." Again, I believe understanding the data processing specifications is important because it's really the foundation to all of the policy and the implementation of that policy. So the question is—I don't want to delay going to public input but we spent three years doing this. But the data processing specification is so fundamental to this policy, and it really is foundational, that it's not clear to me that we could actually ask for public comment until there's a final version of the DPS for everyone to know and understand and read and appreciate. So do we know how that's going to work? Can we go to public comment without a DPS? It's not clear to me we can, but I'm curious as to what other people think.

DENNIS CHANG:	Yeah. Sarah has a good point. Let's talk about the One Doc. Maybe this is a good transition. And keep that in mind. This is like the biggest question in my mind right now. As you know, as I've been managing the project, we define dependencies and the things that are critical to our timeline. When things get done and they come along and it doesn't impact our timeline, we don't really need to talk about it, but when it feels like it does, then we have to reconsider what is the best thing to do for the project. So I'm glad that you're keeping an open mind there.

We'll talk about the next item. Sarah, stay on. We're going to talk about One Doc IRT here. We're going to talk about what we call Section 5. Section 5, as you noted, is now rebranded as data processing specification. Now that we know, we're talking about data processing specifications, just so that we have clarity, we're not talking about anything other than data processing specification in this section. Sarah asked us to discuss it and it was perfect. Of course, we had it there on the agenda so we're going to talk about it now.

These are what I would call the policy language that we have come up with that is consistent with our understanding of the DPS. So I'll open it up for discussion at this point. If you have comments right now, that's fine. We'd love to hear from you. But now that we have given you the DPS definition or the tutorial, I think it's fair to say consider this language in the view of this presentation that you just got, and we'll be happy to give you more time so you can come back with more of considered questions. Alex, you have the floor. Go ahead.

ALEX DEACON: I think it's impossible, really, Dennis to comment on Section 5 without actually seeing the DPS. So I think we're putting the cart before the horse here. How can we agree to a section about DPS without seeing the DPS? Again, this goes back to my questions about the dependency we have as an IRT on the publication of the DPS. I'm just not too sure how I could review this without really understanding what this data processing specification defines.

CYRUS JAMNEJAD: Alex, it's good point. I think, from our perspective, the DPS itself puts in place those data protection requirements around the processing required under the policy. It doesn't change any of the requirements and it sort of just sets the parameters around that processing. So with that kind of being the ballpark in which we're operating, I think my understanding would be that that's sort of insulated and it doesn't affect any other elements in the policy that maybe it wouldn't be required. But prior to public comment, it's not my place exactly to say. I think the answer to your question may inform that, of course. But our understanding is really that this is really just codifying what's here and making it acceptable for the contracted parties to process that data and hopefully it doesn't impact other things. So to the extent that the belief is that it does or it doesn't, we'll get back to you on your points.

DENNIS CHANG: Next, Alex, if you're done—do you want to come back? Or shall we have Marc have the mic? Marc, go ahead.

EN

MARC ANDERSON:	Thanks, Dennis. First, Cyrus, thank you for the presentation. I thought that was very informative and useful. So I appreciate that. In this discussion, Section 5, the attempt is to codify what's in Recommendation 19 and 20. I guess the first thing I want to comment on is that it doesn't seem to do that. I've got the two pulled up. The language starting in Rec 19, the relevant part there is the EPDP team recommends that ICANN Org negotiate and enters into required data protection agreements as appropriate with the contracted parties. We can go on from there but that's the gist of it. But going back to the language in Section 5, it does not reflect that at all. It says, "Registry operators and registrars must enter into and maintain, in effect, data protection agreements with each other and the relevant third party providers concerning the processing of registration data pursuant to this policy as required by applicable law."
	These are two different things. The recommendation talks about contracted parties in ICANN and the contractual relationship that they need to have. This goes off on its own and creates an obligation about registries and registrars entering into maintaining agreements. Cyrus, you said at the end of your presentation that this wasn't intended to create new obligations or anything that wasn't already there. But just by my reach right off the bat, it seems to diverge from Rec 19. I'll stop there. That's my comment on there.
CYRUS JAMNEJAD:	Yeah. That's a good question about the language in Section 5 here.

DENNIS CHANG: I think Marc is commenting on the first sentence.

CYRUS JAMNEJAD: We'll take that point back from—

DENNIS CHANG: It's new requirement. That's how you say it. Okay. That's good input. Go ahead, Beth. How are you?

BETH BACON: I'm sorry. I thought Sarah and Alex had their hands up before I did.

DENNIS CHANG: No, you did first.

BETH BACON: Okie dokie. I just didn't want to—

DENNIS CHANG: I see an order.

BETH BACON: I was stealing a spot. I apologize. Actually, can I go after Sarah, please? I'm sorry.

DENNIS CHANG: That's fine. Sarah first.

SARAH WYLD: Hello, friends. I hope everyone is doing well. Thank you so much, Cyrus and Dennis, for that helpful review of what's going on with the DPS. That was useful information. I do still have some concerns about the language in this Section 5 that's on screen, specifically that it does not match the recommendations. I have three specific points that I want to raise about that, which we can talk about at whatever time is appropriate.

So firstly, what Marc has mentioned, the new language focuses on agreements among the CPH and with third-party providers but the recommendation does not require that contracted parties enter into DPA with each other. It only focuses on ICANN Org. So I was indeed looking at Rec 19 right there. ICANN Org negotiates and enters into with the contracted party. So that's my first concern. Where did the CPH DPA requirement come from?

Number two, the recommendation said that the agreements must specify each party's responsibilities for processing data. But the new language says these agreements must include the purposes for the parties processing of personal data. So these are not the same thing. Responsibilities are not the same as purposes.

Then my third point is the data processing specifications is a very specific agreement which does not yet exist. How can a policy require us

to enter into a non-existent agreement? It talks about negotiation. What happens if a specific contracted party wants to negotiate and amend that base text? I do think that the recommendation suggested that that should be an option. Thank you.

DENNIS CHANG: Thank you, Sarah. Beth, are you ready? Or should we let Alex go first?

BETH BACON: If Alex is okay, I'm happy to go. But I'm also happy to go after Alex, since I had a logistical issue.

ALEX DEACON: Go ahead.

BETH BACON: Thank you very much. I just wanted to plus one to Sarah's comments that the Recommendation 19, 20, I think that this is something we discussed from way back when we were going through the list of recommendations in the policy that needed policy language and that didn't need policy language. And I feel like this is [inaudible] very much said did not need policy language because the direction was you enter into a DPA and the other says these are some of the things that are in a DPA. This should be seen in the DPA. So we're done. We did that. We're drafting the DPS and it'll become part of the contractual process. So I don't know that we need this in here if we are in fact we're doing it. We're doing what the requirements said. While I agree with Sarah's

EN

comments, yes, it doesn't really reflect the language. Also, I just wonder if this is extra confusing and not required.

DENNIS CHANG: Well, this is really interesting. I didn't look at it that way. But we haven't talked about this. We unpurposely avoided this topic. This is like the first time we're having a real conversation about the policy language. Boy, we have a big range here. I think you just included an option of not having any language to our own consideration. That is super interesting to me. Alex, go ahead.

ALEX DEACON: Thanks. I think, whether or not Section 5 exists, I hope we could all agree that the existence, the finalization and the entering into, if you will, of these data processing specifications is a requirement. And I think it's important to remember that the policy requires four separate DPAs, the DPA between ICANN Org and the CPs. This is what's being negotiated now, what Sarah gave us an update on. There's the DPA between ICANN Org and the dispute resolution providers. There's the DPA between ICANN Org and the escrow providers. And then also the policy mentions that there needs to be DPAs between registries and registrars for the transfer of that data.

Again, these are requirements of a policy. We know that the first DPA between ICANN and the CPs is being worked on. We don't know what the status of the other two are, let alone the last one between registries and registrars. So again, I'm struggling to understand how much work we could do with the One Doc until these are completed. It seems to be

a pretty big dependency to me that these DPAs exist and can be reviewed by the community. I'm not too sure how we could go to public comment and get input on the One Doc until these foundational documents exist and are available publicly.

DENNIS CHANG: Beth?

BETH BACON: Alex, fair points. I think that the requirement to have a DPA exists and we agree with that. I do question putting this in here, because as ICANN noted in their slides, if they're going to take a view of maybe this is necessary or not necessary and the CP has decided, I have to say that we haven't really discussed that in the negotiating group, that particular point and finalized. But how does Contractual Compliance enforce this if we put it in? I mean, we could say that there is a DPA and you're required to have it, sure. But Contractual Compliance is likely not going to enforce that. It would be part of the contractual process and not part of the policy.

So I think, Alex, the requirement is there. I don't think that we can or want to get rid of the requirement to have a DPA. It's legally required for us under the law. I just don't think it's necessary. I think it's confusing in the document. But yeah, I agree that the DPA is going to be a thing or needs to be a thing.

DENNIS CHANG: Anyone else? Alex, clarify something for me. This has been on my mind. When the GDPR came on, like any law that I see, I see the law come and GDPR says, "You shall have something called DPA." They made a law without ever seeing the DPA first. The law is there, "You shall have a DPA," so now everybody goes out to do a DPA.

Isn't it the same thing with our policy? Our policy says, "You shall have a DPS," and then they will have to make a DPS if that's the policy obligation. That's why I'm thinking the way I'm thinking is it will be nice to see it. But are we really required for that actually exist and come through it to say that, "Yeah, they did it"? They did is really part of the policy Contractual Compliance activity that comes on later. And after we publish our policy, I'm sure that we will be working together to create all the documents, not just the DPS, everything that's required to be complete and effective with a policy. That's a question I have. I don't know if you have thoughts about that. But I'll let Chris speak here. Hey, Chris. Go ahead.

CHRISTOPHER LEWIS-EVANS: Thanks, Dennis. Not wanting to put words in Alex's mouth here but just want to answer your question from my viewpoint is really I think what makes a big difference is who's the controllers, who's joint controllers, and everything else like that, which should be stipulated in the DPS from what we've seen. Because that does make an impact on the other work that we're doing. So I think seeing that overarching one for myself is probably important. The ones between the registrars and registries, less so. Although obviously I'd be interested to know if they make themselves co-controllers or whatever the agreement is. But that's just

that. If anything disagrees with the assumptions that were made, because obviously you've got to remember this was all made a number of years ago now when GDPR was still quite new and people hadn't written a hundred DPAs. And also, as we've been told loads of times, the domain name space is a little bit different. So I think the overarching was definitely necessary to see.

Then with regards to why I have a hand up was around the removal of Section 5. The only thing that's snagging in my head a little bit is obviously a lot was talked about, and certainly from the NCSG's viewpoint, around trying to enhance the data protection provided to registrants and whether data protection agreement between registrars might be beneficial for them for that rather than just making it legally compliant. So I don't know whether that's something they might care about. But that's the only thing that's sticking on there. That if we remove it, does it take away some of that? So that's my only thought on that. Thank you.

DENNIS CHANG: Thank you, Chris. Anybody else? Let's see who's next. Alex, go ahead, and Marc.

ALEX DEACON: Dennis, to answer your question. I think if ICANN Org can confirm definitively that the details in the table in Rec 20 have not and will not change, then that definitely helps in terms of confirming important concepts of controller and joint controller, etc., that Chris just mentioned. But I think as I've mentioned several times, the DPS is

foundational to both the policy that we created and thus the implementation.

So I struggle to—I'm not comfortable, I think, in going to public comment, especially approving any IRT output without knowing what the DPSes say. As I mentioned, there's more than just the DPS between ICANN Org and the contracted parties. There's two others that need to be drafted too. Again, I keep on tripping over the dependencies and exactly what is required for us to complete our work. Given the foundational nature of the DPSes, all of them required in the policy, I struggle to see how we could actually complete our work without these DPSes being drafted, approved, and I guess entered into, which I think is the word or something similar that the policy says. So this is where my head is at.

DENNIS CHANG: Marc?

MARC ANDERSON: Thanks, Dennis. Good discussion so far so thank you for this. I guess I just want to make two comments. First is maybe a carryover from my first comments. In looking at this language, I know that somebody got happy with the words "applicable law". It's used four times in three sentences, which is a little bit different than the language in Rec 19 which says, "Enters into required protection agreements as appropriate." I'm not sure if this is a distinction without a difference. But generally, this may be a consistent thing I've raised all along, the

tendency to rewrite the language and the recommendations when we could just use the language and the recommendations.

So that brings me around to my second point, which is to agree with Beth's point, if Section 5 is necessary, looking at Rec 19 and 20, these are recommendations from the GNSO Council. The Board adopts those recommendations and instructs ICANN Org to implement those. In negotiating and entering into required protection agreements as appropriate with contracted parties, the implementation of that is to actually negotiate and enter into those required protection agreements, not necessarily to rewrite the language in a policy document. So I agree with Beth's point. The implementation of those recommendations, it doesn't mean we have to have this data protection agreements section in the policy. Actually, you negotiate and enter into the required protection agreements as appropriate. Just my thoughts on that one. Hopefully, those are helpful comments.

DENNIS CHANG: Hey, Marc, it was very helpful. I love this IRT, like you're scratching my mind. It's the most fundamental thing. But maybe we don't need to mention it on the final. I'm trying to reconcile the two concepts. And I really need to have some quiet time to think about that as a cohesive set. But this is a super interesting conversation and I think we do need to think about it a lot more. Obviously, the thing that I was trying to open up today, the first time we have talked about DPS and what it means. We need more work to do there.

Then the thing that I'm trying to do here is I'm letting you know that this is a timeline we came up with together. Of course, it's my job to drive the project to meet the timeline. Based on how I'm looking at the August 22 public comment, we're doing a lot of work to get ready for the August 22. I'm identifying those dependencies to review them, to see what actions that we might need to take. So I wanted you to think about it along that line.

What we'll do is we'll table this discussion for now, then we'll move on to our next agenda, 8.1.2 and 8.2.2, it's an interesting topic. You'll have more time to think about. It's not due until later. Berry, are you okay with talking about this for us? I think you are the one who uncovered this for us. I know Gustavo made a change, but you having provided a drafting error language, I think you have a really good understanding of it. And the way you explained it to me, it makes sense. Are you okay, Berry?

BERRY COBB: Thanks, Dennis. Hopefully, the IRTs had a chance to review through the materials to keep it brief. There were two data elements that weren't identified in the data elements table for Purpose 4A that were an existing requirement for registrars to escrow. That's the Creation Date and the name server's date. And therefore, it didn't show up as required or optional or not required on the final recommendation. I forget which number it is, Rec 8.3 or 8. At any rate, we made the suggested edit here and then added the rationale to implementation. It's no longer Drafting Errors, the Implementation Interpretations document.

So 6.1 just outlines and points to the existing requirements in the RAA Section 3.3.1.2 through 4. And 6.2 is just a summary of what exist in the draft One Doc, and then the rationale in 6.3. Just like other issues that we found, the general intent of the EPDP was not to change existing requirements except where maybe the analysis of the data processing of personal data required a particular change. These two data elements I believe were an existing requirement because they are in terms of promoting security and stability, when we think about needing to recover from a failing registrar in the use of that escrow data. So I'll stop there. I see Marc's hand is raised. Thanks.

MARC ANDERSON: Thanks, Berry. I guess I'll jump right in. So on this one, I don't feel strongly about this. This is a registrar topic so I'm perfectly happy to defer to registrar colleagues on this. As Berry noted, this doesn't seem to really pertain to personal data. With all those caveats, though, I'd say those were deliberate omissions. When we were discussing this particular topic, we were considering very specifically that the data minimization principle, and so we had a breakout group in one of our L.A. face-to-face meetings to discuss this. The question for the Registrars is what data do you actually need? What data would you use if you as a registrar were recovering a registration? The reason these were admitted is because for registrars, they said that even if they receive this data from an escrow file, they would not rely on this data. Rather, they would rely instead on the data that shows up at the registry and in DNS. So they would use the Creation Date at the registry and they would use the name server data that is currently live in DNS. And the reason there is if there's a conflict for any reason, they would

EN

rely on the registry's Creation Date and the current name server dates that are live in DNS. So if there was a conflict, they wouldn't go in and change the existing DNS data based on what's in the escrow file, they would rely on the name servers listed in DNS as authoritative.

So, that was a deliberate omission. I'm just sharing my recollection of what was discussed here. I don't want to take a position or have an opinion here. I really want to defer to registrars as I see this as a question for registrars as to what will make sense for them.

BERRY COBB: Thanks, Marc. You must have some elephant DNA because I could not remember those discussions about it being deliberate or not. I think, personally speaking, I'm uncomfortable for it because then it's just one less mistake that I made on those data elements tables, or that we all made. I think just as a bit of rationale—and I'm not going to speak for Gustavo, but he made that very same point when we discussed this in prep for this—that the more authoritativeness of these two data elements is better served at the registry level. But we made the ultimate decision to continue forward within this route. Because specifically what you just brought up, I couldn't remember that specifically. And, I guess if anything, if need be, I can go chase down. I remember us breaking out into small teams, I don't know if there are transcripts or anything to point back to that. But I think, as you noted, from a data minimization perspective, perhaps it's not necessary and, like you said, defer to the registrars here. I don't think this is a hill to die on type of change.

DENNIS CHANG: We have a registrar speaker from Roger. Go ahead.

ROGER CARNEY: Thanks, Dennis. Thanks, Marc and Berry. I would agree I don't need for this. Again, Marc's explanation made perfect sense. It made sense back then and it makes sense now. This data, also we're doing this duplicating data that we're passing around, that just doesn't make sense. We wouldn't really use this to begin with. If we had to go back, we would create the registry. So yeah, I would vote to remove this and go back to, as Berry mentioned, his correct interpretation. So I don't think there's much to follow up here on. I think we can just remove it and agree how it's supposed to be. Thanks.

DENNIS CHANG: Thank you for that input. Any other? We'll let you know which way we're going to go. But either way, we're going to document it here so that the next time somebody asks a question, like why do we have to change this, I'm already far away of making the change the policy recommendation was silent on it. So we can we can document that it was the intent of the EPDP team and it was deliberately omitted, not accidentally omitted in other cases that we have found. This is super helpful for you to remember that in chiming in. Thank you, Roger, for confirming from your side. So we'll let you know.

We'll make the next update based on any other comments that we get. This action item isn't due until the next week, we got a couple more

weeks. So consider it. Talk to your peers back home, and then come back to us if you have any other thoughts, but I appreciate the input today. Very timely. I didn't expect such a quick reaction. But let's see.

We talked about the drafting error number six and that's Berry just showed you. The other thing that I wanted to show you, you are already looking at it, but if you look through the document, it looks like a lot of changes. What we're doing is updating all the section numbers and we wanted to you to see that. We're removing tags that we had. This is all in preparation for the public comment. We want to produce a just pristine document, very clean, and will provide all the explanation somewhere else. Isabelle is going to talk about that a little bit after I talk to you about this. But this is what we're doing.

Now that you know, Sam wasn't able to make it to the meeting today but I asked Sam to go ahead and accept all those changes on the section numbers like this so that we can continue with cleanup. The same thing is going on with the other policy, the consensus policy we had the redline, and that was referring to this document on the section numbers. So I wanted you to know that too. Okay. That is what I meant by renumbering and now you all know. I think I issued a notification so that you were alerted on that already.

Now we have 13 minutes. Okay. I think we have enough time. So let's talk about—oh, I'm sorry, Gustavo. Yeah. You remind me. Gustavo, you wanted to talk about the implementation notes that you have. You sort of explained to me that these are related but not necessarily related. We are talking about the two, Creation Dates and Updated Dates, but

I'll give you the floor. Go ahead, Gustavo. Tell the IRT what you were thinking here.

GUSTAVO LOZANO IBARRA: Thank you, Dennis. Can you hear me?

DENNIS CHANG: Yes.

GUSTAVO LOZANO IBARRA: So during our conversations about Creation Date and Updated Date, created by the data escrow stuff that Berry just mentioned, there were a lot of questions about what is the meaning, really, of those Creation Date and Updated Date. Let me start with Updated Date because probably that's the most complex one.

So right now in the domain industry is pretty easy, you have thick or thin, and that are the models that we have in the wild. So Updated Date, really easy to understand what it means. But in the future, we'll have the spectrum of thickness on the registrar, on the registry, because they may be able to show something or may be able to transfer something or not.

So we were discussing what Updated Date means. For example, if we have a registry for which the registrant cannot transfer any data because of privacy law. What happens if, for example, I update the registrant name, if I go to the WHOIS of the registrar, should that be reflected because maybe the registry was not updated, because

obviously, they don't allow the transfer of data? But the data which is part of the domain of it was updated in the registrar. So we were discussing this and we believe the BCs probably what Updated Date means, and it will be great to get feedback from the working group. So in the case of the registries, pretty simple if you receive a common [inaudible] that's the Updated Date. Obviously, that was successful. In the case of the registrar, we believe that Updated Date means either the most recent update in the registrar database or the registry database with the caveat that sometimes that update in the registrar database may be reflected or not in the registry database.

In the case of the Creation Date, we believe that is what we're saying there with the data element is the point in time when the creation of the domain object took place in the registry database. And maybe we should say domain object. This is important because there were questions about, hey, what happens if the domain name was created as part of an application process and there was an option? Is that Creation Date the date of the application? We believe that that's not the case. We believe that the Creation Date is always meant to be the point in time when the domain object is actually created in the registry database. So those are the two implementation notes that we believe are necessary, just to be clear what those two data element means. So the floor is open. Yes, Alex?

ALEX DEACON: The only comment I have—and I don't have a super strong opinion on this—is do we need to be more specific as to the words creation? So Creation Date for the purpose of this policy refers to the point in time,

which when creation took place, creation of what? The same for updates. Policy refers to the most recent update—update of what? The RDDS record? Should we be more specific there, or is it clear? Or will it be clear to most people that will be reading this policy?

GUSTAVO LOZANO IBARRA: Only for Creation Date, we can add domain object. I think that's well understood. So we can say it refers to the point in time when creation of the domain object took place in the registry database. The Updated Date, that's more complex because I don't think that we have a definition of RDDS record or something like that. I understand what you mean with RDDS record, but I don't know if that's a well-defined term. There's a reason why we were thinking of just leave it as it's an update with the understanding that that means we are discussing the data elements within this policy. Or maybe we can say the purpose refers to the most recent update of any of the data elements referred or listed in this policy. Maybe that will make things clearer. I don't know. What do you think?

ALEX DEACON: I think so. Yeah.

GUSTAVO LOZANO IBARRA: Yes, Marc?

MARC ANDERSON:	Thanks, Gustavo. I think generally these are fine. I do wonder if they're defined somewhere else. If there's an existing definition, we can leverage. I don't know the answer to that. I'm just wondering if we're creating confusion with multiple definitions. But for the Creation Date, adding domain object is fine. For Updated Date, I think you would have to use domain object too, because I think saying Updated Date for any object would cause problems, right? A contact object can be used by any number of domain objects. I could be wrong about this, but I don't think if you update a contact object, I don't think that that automatically updates any domain objects that use that contact object. I'm getting a plus one from Jody. So I'm guessing he's confirming that I'm correct here. So I think for the Updated Date, you would have to use domain object as well.
GUSTAVO LOZANO IBARRA:	The only issue with using domain objects in Updated Date, I don't know if it's clear, implemented, right? I mean, I don't know if you can argue that the contact object is part of the domain object or not. You can argue both ways and probably those both ways of arguing that is and is not part of the domain object are true. So I don't know if we can just say for the purposes of this policy refers to the most recent update of any data element referring this policy that took place in the registrar database. So that is hopefully easier to understand, meaning if they update the registrar name of that contact object that is referred to, that domain object, that means that the domain object was updated. It's what's something that we were struggling in. We're trying to refine what Updated Date means. So yeah. What do you think about the proposal?

DENNIS CHANG: Gustavo, that's a good question. You mentioned domain object, now I'm wondering what that is.

GUSTAVO LOZANO IBARRA: Usually when you say domain object, you refer to the EPP Specification RFC 5731, if memory serves, in which the domain object is defined. If you say domain object as an implementer, I will think that you're referring to that.

DENNIS CHANG: Implementer is good enough. Implementers we know, and that's a good thing. Okay, good. I like your clarification. Do you have a [inaudible]? You have more hands. I see it's Marc Anderson still has his hand up.

MARC ANDERSON: Old hand.

DENNIS CHANG: Thank you for that discussion, Gustavo. I hope you got some good inputs. This action item is due—

GUSTAVO LOZANO IBARRA: So please think about it. Hopefully we can have something that we can find there for updated because—

DENNIS CHANG: I neglected to mention the implementation notes. I thought I did and I didn't. I apologize for that. We do want your review on the implementation order. I'll probably add a separate action or task so that you can do that. We received really good input on the 8.1.2 and 8.2.2 today. Implementation notes still need some input there. So thank you for that.

Let's go back to our agenda and checking on time. Public comment plan. Isabelle, let's push to the next meeting. Basically, Isabelle wanted to do is give you sort of our thought process of how we're thinking about the public comment and how extensive it will be and how to get your input on how long we should make the public comment and all that. So that is something that we'll need to discuss. Of course, we could just do it but I found it valuable to get IRT input because if anybody is expert in public comments, it's you who probably is looking at all the comments that you have to do. We could make it easier.

So this is a public comment proceeding that Andrea is going to update and you will probably see it show up here. It's not posted yet, but when it does show up, Andrea and her team is going to make it public that August is the date that we're shooting for. We have already announced that our timeline was third quarter of this year, and we're targeting August to be more specific, and we're going to be reporting on.

Okay. That is all. Beth is apologizing for leaving on time. No need to apologize. Let's wrap it up here. Thanks, everyone. I'll see you in our next meeting in The Hague. Bye-bye.

ANDREA GLANDON: Thank you, everyone. You may disconnect. IP team members, please stay on.

[END OF TRANSCRIPTION]