

Michelle DeSmyter:Dear All, Welcome to the GNSO Next-Gen RDS PDP Working Group call on Tuesday, 26 September 2017 at 16:00 UTC.

Michelle DeSmyter:Agenda wiki page:

https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_x_amfwAw&d=DwIFaQ&c=FmY1u3PJp6wrcrw113mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWG1BLwwehFBfjrsjWv9&m=kHG5EOEXsie8VOZ7tbBWMvttMxGSRJtyI6g8JWEKA-g&s=jJwTQXTaY2cz5wDFG8QtPt8ldRQjPTo509pX300X5Fk&e=

Herb Waye Ombuds:greetings everyone

Ayden Férdeline:Hi Herb, hi all

Chuck Gomes:Hello to all. I am back in my home office after nearly walks away.

Chuck Gomes:Let me try that again. Back in my home office after nearly four weeks away.

Krishna Seeburn - Kris:hi all

Krishna Seeburn - Kris:glad to see the common names

andrew sullivan:@ Chuck I am sure everyone involved in this has nearly walked away once ;-)

Lisa Phifer:Original Registration Date proposal:

https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_download_attachments_66086756_Volunteer-2520Team-2520on-2520Action-2520Item-2520regarding-2520Original-2520Registration-2520Date-2520-2D-252018-2520Sep-2520Update.pdf&d=DwIFaQ&c=FmY1u3PJp6wrcrw113mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWG1BLwwehFBfjrsjWv9&m=kHG5EOEXsie8VOZ7tbBWMvttMxGSRJtyI6g8JWEKA-g&s=grgqNz-PCtWp3LvFhIN0L8o6RecQsq9cy-NYSarpKHU&e=

Alan Greenberg:Sorry, last meeting ran late.

andrew sullivan:I saw nobody argue in favour of this thing. I think it's dead

Sara Bockey:agree it should be dropped

Michele Neylon:Can we let it die?

Michele Neylon:flogging horses is cruelty to animals :)

Lisa Phifer:Proposed WG Agreement: There is no requirement for the Original Registration Date as proposed by the EWG Final Report.

andrew sullivan:I'm good with that

Volker Greimann:i liked this too. we had a very constructive discourse...

Lisa Phifer:Displayed results:

https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_download_attachments_66086762_AnnotatedResults-2DPoll-2Dfrom-2D20SeptCall.pdf&d=DwIFaQ&c=FmY1u3PJp6wrcrw113mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWG1BLwwehFBfjrsjWv9&m=kHG5EOEXsie8VOZ7tbBWMvttMxGSRJtyI6g8JWEKA-

[g&s=0hE4CD3EsKIN4-zB7ec-LYRzuPvc35erDkpa3D1BWyoe=](#)

andrew sullivan:I'm glad we explored the idea, we laid out the arguments, and now we're done with it. Let's do that again! :-)

Lisa Phifer:WG Agreement (from last week's poll Q2): There must be at least one purpose for collecting each data element in the MPDS, and that purpose must be sufficient for making that data element public.

andrew sullivan:The ones in purple are actually not answering the question, note

andrew sullivan:for instance, purposes 5-13 don't have to guide the MPDS at all if another one establishes a reason to collect

Alex Deacon:just joining-apologies for being late.....

Lisa Phifer:@Andrew - purple (blue on my screen) suggest deleting purposes for collection of MPDS

andrew sullivan:(indeed, if purpose 46 were "and purple elephants want this", and yet there are no purple elephants, it doesn't matter)

andrew sullivan:@Lisa, I know, but they're not answering the question :)

Lisa Phifer:Legal Analysis Memo prepared by WSGR to be posted after call at https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_x_J1zwAw&d=DwIFaQ&c=FmY1u3PJp6wrcrw113mSV_zgfkbpSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWG1BLwwehFBfjrsjWv9&m=kHG5E0EXsie8VOZ7tbBWMvttMxGSRJtyI6g8JW_EKA-g&s=gfRm8eZEe5Wo4JNeVbF2wvaHjMjNaAuFpNmc0e_1YWI&e=

Ayden Férdeline:Very much looking forward to reading the memo

Lisa Phifer:Excerpts Chuck is describing will also be posted at https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_x_J1zwAw&d=DwIFaQ&c=FmY1u3PJp6wrcrw113mSV_zgfkbpSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWG1BLwwehFBfjrsjWv9&m=kHG5E0EXsie8VOZ7tbBWMvttMxGSRJtyI6g8JW_EKA-g&s=gfRm8eZEe5Wo4JNeVbF2wvaHjMjNaAuFpNmc0e_1YWI&e=

Marika Konings:As noted, the memorandum as displayed on the screen will be distributed immediately following this meeting to the mailing list.

Lisa Phifer:The ICANN58 questions asked and the senior data privacy expert answers are already posted at that same link

Volker Greimann:hehe, adobe lets you download the document ;-)

Marika Konings:you can get a head start Volker ;-)

Volker Greimann:already did!

Ayden Férdeline:great memo. pg 14 "From the above, it can be seen that asking for consent would not be simple, would not solve all data protection issues, and would pose a number of organizational challenges." +1

Marika Konings>Note that a session on GDPR is planned for ICANN60 although I am not sure whether it is already known what

the meeting will focus on (but presumably it will include an update on all ongoing activities?)

Stephanie Perrin:May I ask why the particular legal firm was chosen?

Michael Palage:SO Greg you think ICANN is going to provide legal advice on how to comply

Michael Hammer:Does ICANN have a DPO?

Michele Neylon:Michael - they do *now*

Marika Konings:@Michael - yes, Dan Halloran was recently appointed in that role

Michele Neylon:they didn't until about 2 months or so ago

Michael Hammer:So would I be correct to assume that ICANN hasn't completed a DPIA?

Marika Konings:@Michael - see

https://urldefense.proofpoint.com/v2/url?u=https-3A_www.icann.org_news_blog_introducing-2Dicann-2Ds-2Dchief-2Ddata-2Dprotection-2Dofficer-2Dcdpo&d=DwIFaQ&c=FmY1u3PJP6wrcrwl13mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWG1BLwwwehFBfjrsjwv9&m=kHG5EOEXsie8VOZ7tbBWMvttMxGSRJtyI6g8JWEKA-g&s=5dxNsr5Q8c8Qo31LNtWP92tsK08UCk6fm7oPFaC31Ts&e= for further information on his role.

Greg Aaron:ICANN will perhaps offer contractual waivers. lLet's put it that way.

Alex Deacon:+1 Alan. seperate but related problems.

Krishna Seeburn - Kris:that is mostly true... @ alan very true as Afrinic under IANA is starting to look at the whois. Nothing came from ICANN by any means...we are discussing what we need to do with the RIR whois

Alan Greenberg:One can dream that proportionality will allow data commissioners to just allow WHOIS as it is today. BUT if that does not happen, we need to decide what will work.

Michele Neylon:ICANN ignored everything up until a couple of months ago

Ayden Férdeline:+1 Susan.

Michael Hammer:That is not uncommon Michele.

Ayden Férdeline:Incidentally the bio of ICANN's new DPO does not suggest he has a background in data protection or privacy.

Krishna Seeburn - Kris:he doesnt seem to have any idea unfortunately

andrew sullivan:I dearly hope that this does not come to be a discussion of how ICANN-the-organization has failed in various ways to satisfy ICANN-the-community in a number of dimensions. Much of this discussion, I willl note, happened at boring length during the IANA changes.

Krishna Seeburn - Kris:sorry to say that

andrew sullivan:It is unfortunate, but here we are, and I don't see why we should care what the shortcomings of the organization have been in respect of previous policies

andrew sullivan:let's make new policy that makes things better

Volker Greimann:Contracted parties are favored? Never noticed that. Feels like the opposite

Krishna Seeburn - Kris:+1 susan

Alex Deacon:+1 Susan....

Fabricio Vayra:+1 Susan

Herb Waye Ombuds:Sorry folks, I have to run for another committment, have a great day all...

Vicky Sheckler:+1 susan

Michael Hammer: - Alan, I don't think dreaming is the right approach. It is up to ICANN, whether as an organization (top down) or through working groups (bottom up) to make the case as to why WHOIS, to whatever extent data elements are made public, should fall under proportionality.

Alan Greenberg:@Michael, and I think that is exactly what they are hoping to do.

Stephanie Perrin:I was merely attempting to point out risk.

Stephanie Perrin:I have been pointing out that binding corporate rules would have been a good option. I still believe it can be done, supplemented by thorough privacy impact assessments.

Krishna Seeburn - Kris:its not only the gdpr, south africa is enacting POPI and i know Mauritius we are fast tracking to align to gdpr and be enacted by Jan 2018

Susan Kawaguchi:@ Alan, sorry do not agree with you

andrew sullivan:I'm taking myself out of queue because I'd just be piling on and we have other work to do :)

Lisa Phifer:@Kris, we have included South Africa's data protection law in this WG's inventory of inputs and possible requirements list, which someday we'll get back to deliberating on...

Chuck Gomes:Thanks Andrew

Michael Palage:Now available online -

https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_download_attachments_66083879_WSGR-2520memorandum-2520to-2520RDS-2520PDP-2520WG-2520-2D-2520FINAL-2520-2D-252025-2520September-25202017.pdf-3Fversion-3D1-26modificationDate-3D1506443238731-26api-3Dv2&d=DwIFaQ&c=FmY1u3PJP6wrcrwl13mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWG1BLwwwehFBfjrsjWv9&m=kHG5EOEXsie8VOZ7tbBWMvttMxGSRJtyI6g8JWEKA-g&s=iwGjvCzcxP7ZV6sejfqSEBNK77azA9Zu5PZeMJ3GG88&e=

andrew sullivan:But AFAICT, given the ICANN policy making

stuff, suppose that whois rules were changed tomorrow and came into effect. IMO that would have exactly no consequence for us

andrew sullivan:because we are in a position to make a new policy & replace whatever change happens tomorrow. That's what we're supposed to be doing, not worrying about all this other stuff

Marika Konings:@Greg - those were submitted to the effort

Ayden Férdeline:ICANN org did open use cases up to public comment, for anyone to submit use cases.

Krishna Seeburn - Kris:@lisa : thanks

andrew sullivan:Also, aren't we all members of the community? WTH that ICANN has to "ask us" for stuff?

Alan Greenberg:A@Greg. Anyone of us who was consulted could have pointed to the use cases we developed, just as they used the EWG work.

Vicky Sheckler:agree w/ greg re: we should be prepared for the likely need for further legal advice as we move forward with RDS

Krishna Seeburn - Kris:@stephanie +1

Alan Greenberg:Stephanie, can you (offline) define what you mean by binding corporate rules?

Michele Neylon:Alan

https://urldefense.proofpoint.com/v2/url?u=https-3A_en.wikipedia.org/wiki/Binding-5Fcorporate-5Frules&d=DwIFaQ&c=FmY1u3Pjp6wrcrwl13mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWGlBLwwehFBfjrsjWv9&m=kHG5EOEXsie8VOZ7tbBWMvttMxGSRJtyI6g8JWEKA-g&s=Vu6NotEwrSMrerrn6jqdlcA0IPmBL3PZWD50rcJaH00&e=

Alex Deacon:FWIW IPC included several EWG use cases in its use case document submitted to the ad-hoc WG on GDPR....

Lisa Phifer:@Stephanie, don't BCRs change with GDPR and Privacy Shield?

andrew sullivan:If we're going to keep getting legal advice, could we also get some technical advice too? We seem not to be willing to listen to that internally all the time either ;-)

Stephanie Perrin:I must correct myself, the GDPR had been tabled in 2012, not passed at the time we got the legal advice. I suppose there may have been a faint hope in some quarters that it would not pass.

Lisa Phifer>Note that our charter anticipates getting legal advice on proposed requirements in phase 1, then proposed policy in phase 2/3. There is also in our charter examining technical feasibility of proposed policies in phase 3 (which may cause phase 2 proposed policies to be revisited)

Stephanie Perrin:yes Lisa they do change but still possible, we need legal advice on how to implement them in the new environment. A lot of work has gone into contractual clauses and

BCRS.

Lisa Phifer:Action for all WG members to participate in one-question poll on proposed WG agreement (Original Registratiton Date)

Sara Bockey:thanks all

Susan Kawaguchi:Thanks all

Nathalie Coupet:Bye

andrew sullivan:thanks everyone

Ayden Férdeline:thanks all

Stephanie Perrin:PRivacy Shield only covers US, there are 120 countries witt DP law. BCRs help with the global problem

Krishna Seeburn - Kris:thanks all

Nouradine Abdelkerim Yousseuf:Good evening Everyone

Nouradine Abdelkerim Yousseuf:thanks all