

**ICANN**

**Moderator: Maryam Bakoshi  
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11:00 am CT**

David Olive: Good morning and welcome to day two of your meetings. This session as you know on the agenda will be co-chaired by Stephanie Perrin and Steve DelBianco. We have two guest speakers as you see here, obviously Akram Atallah and Cyrus Namazi from our GDD department to talk about Whois and GDPR among other issues. I'd now like to turn it over to Stephanie and Steve please.

Steve DelBianco: Thanks David. This is Steve DelBianco with the Business Constituency. Stephanie as we heard last night wasn't feeling all that well but I'll bet you once we get your juices flowing you're going to start to get engaged more. I'll stand here so that I can see Stephanie and everyone else for purposes of being able to call on people. So this morning we have two sessions, Slot H and Slot I both of them are allocated to GDPR but in very different ways. And we're going to try to be fluid about moving from H to Section I. And Section I will be handled by Tatiana Tropina and Vicki Sheckler. And it's nominally notion on who - GDPR compliance. So that's a deep dive into the models and a really picking up where we left off at the presentation of the Webinar that just occurred from 7:30 to 8:30.

The session that we're going to begin right now between Stephanie and I is to try to discuss reconciling Whois with not only GDPR but reconciling it with a wave of data protection regulation that arises from multiple countries, some of which are emulating Europe and others that have decided to go there their own way. And that notion of reconciling is to say where are we heading? We are heading into no surprise we're heading into something different than the current open Whois, something call it layered and call it tiered access. You saw that in the presentation this morning.

Ozan could you quickly jump to Slide 9? On Slide 9 which is the same diagram that Goran and JJ put up this morning you can see that everything in the "realm of the possible" is below that line between unrestricted and layered. So if the point of arrival is that we're going to change from an all open Whois to some sort of a layered or tiered access then I have to say to the NCSG colleagues in the room for the most part congratulations. That's something you've been pushing for a decade. See that Tatiana's into it.

Okay so that's the point of arrival. And there may be some of us in the business community or law enforcement who would still in climate change denial place and would believe that maybe it's going to be preserved in an open manner. And that's fine. We're going to have a diversity of opinions. But I think for the purposes of this morning both Slot H and Slot I are presuming we're going to end up in the realm of the possible which is somewhere below open and somewhere in this spectrum.

Ozan could you go back to Slide 2? So all that Stephanie and I have are five or six - I think we have seven slides total to try to focus this on what the community really needs to do because when I put together those - that's when Goran put together the slide of all of the different models that may be where we're going but it's not necessarily where we're going to stay. It's like you ask

an Irishmen for driving directions and he starts by saying well I would be starting from here that it's a terrible place to start from. And frankly the path that we need to follow as a community shouldn't really start from this top-down interim decision on compliance models. We actually should have done our work over the past nine years and we wouldn't be in this situation.

Now the memo that came out from ICANN where they proposed their three models made what I was grateful for a frank and honest admission. This is ICANN's words that the interim model and the word interim means - it's an adjective. It means the intervening period. It's provisional or temporary. So the temporary model will not replace the multi-stakeholder policy development activities that are underway. And Goran listed three that we're going to talk about Stephanie and I this morning, three of them.

Privacy proxy services was the first one listed. So we're going to have a dialogue about how does that then replace the interim. Number two, updates and the use of ICANN procedure for reconciling Whois with national privacy laws. And the third which is the development of the RDS PDP, the new policy framework. And there are a number of people in this room engaged in that PDP and it's one where we have the responsibility to deliver on it.

So next slide Ozan. So what we put together in Abu Dhabi was this context diagram. So Goran's diagram wasn't over time. It was arraying things from the amount of data on the horizontal axis. And on the vertical axis they had layered versus due process or subpoenas. This doesn't look at it that way. This looks at time. So time marches from left to right across this diagram and there are three groups that we're talking about who have to work in this -- the community that's us or Akram and Cyrus and then the DPAs.

And those three bodies over time are going to change the way they interact and they'll change the responsibilities. Today we find ourselves right here looking for guidance or guidelines and we may not see them for quite some time. We get a letter from the European Commission on Monday and it helps somewhat, others are weighing in. And then ICANN org will make a decision, a unilateral decision on compliance on interim models. And as we've heard they make the decision on behalf of the entity called ICANN and its compliance as well as the model of what the registrars and registries will need to do. So that particular point is happening entirely within there and let's not may - have any mistakes about it. There's nothing about that process that's multi-stakeholder. It's not a consensus building bottom-up process.

It's a decision, out of process decision made by ICANN and ICANN legal in consultation with the community. They'll listen to everyone the same way that my national government in Washington listens to everyone when it makes a decision. Everyone tries to influence the decision but ultimately it's a top-down decision. But it is an interim decision. We can replace it with those three avenues.

And up top I put privacy and proxy accreditation. That is currently underway. How many people here are working in that project, the privacy proxy services? Okay Susan, Stephanie. I think Tim Chen has one of his employees Susan Prosser's on it okay who's on that. And Christian and who else? Okay and the other one this RDS PDP. How many hands from people who were involved in RDS PDP?

Oh that's excellent, okay good, a good cross section from NCSG and CSG so we want to cover that as well. So those two are going on and they're in our hands with ICANN supporting us. If we complete that work they replace the

interim policy. This is in ICANN's own words. So what we try focus on is what do we need to do to reinvigorate those processes?

And the third one was this notion of invoking the Whois conflicts with privacy law and we'll come to that in a moment. So if this timing works out -- I don't have any illusions -- we're not going to finish all this at the May implementation. At May implementation how does the world change? Well presumably the interim client's enforcement would begin by ICANN. We don't know to what extent the European Data Protection Authorities are going to enforce. They may not be eager to enforce on the 1st of June because they realize the companies have to do some implementation.

But we do expect some time after May that - to get some more firm guidelines from that organization called the Data Protection Board. The board is supposed to go into place in May. And it probably will compose of the DPAs who currently are in the Article 29 working party. We don't know that for sure and there may be some movements there but it will be a board and for the first time it will be able to issue guidelines.

We also expect enforcement activities. And they could come from commission itself or they could come from member state DPAs who can enforce once they've implemented the aspects of the regulation in their national laws. And those enforcement actions will drive and focus the attention on interpretations of things that registrars are doing or registries, privacy, proxy. They might even focus a lot of attention on this interim model for the first time because it would be tested in court. Well we can learn a lot from those processes.

And then finally we will finish the RDS. And if we finish the RDS or implement a brand-new privacy and proxy service we'd want to if possible get

a binding opinion about those processes as they're implemented. So it'd be difficult to know whether the DP, the Data Protection board would look at our policy for RDS and say that it's – here's a binding opinion. They're probably going to wait until staff has come back with an implementation plan for that because only in its implementation would I think we'd be able to get a binding opinion on it.

So it's way out there and maybe it's optimistic to say May of 2019 but we need to start to set our goals on getting it done. And I believe that what may drive us to achieve consensus would be the realization that the interim model may not please everyone. All right next slide. Stephanie please?

Stephanie Perrin: Thanks Steve, Stephanie Perrin for the record. And I'll just warn you that if I start to cough it will shut me up so I'll try not to breathe in too heavily. When it comes to finding a balance in our community on approaches to this I have to say that we struggle in NCSG to reach a common position ourselves. I'm heartened to see that ALAC had the same problem and they wound up filing separate comments on GDPR.

But I am now of the view that proceeding with the work that is ongoing now given what I see as a clash to come in May or June or July is a waste of the GNSOs process resources and time not to mention staff. And given the significant discussion we had in the first three days of the week on accountability I would just like to put a marker in here and ask the question shouldn't we suspend all activity on these fronts until such time as we have a clearer picture? Privacy proxy services will not be necessary if the display goes down to only legal persons and not natural persons.

So that not only wipes out our revenue stream for registrars but it wipes out their requirement to have privacy proxy services. I could go through them all

because I think they're all basically busywork that's going on. I won't talk about the failures in the RDS. I have said enough but there is no point in continued arguing with people who won't even recognize the data protection law exists when the other half of ICANN is trying to come up with a model. And all those who are on the RDS will recognize what I'm talking about. So I think from a financial responsibility perspective we have to put things on hold. Thanks.

Steve DelBianco: No that's perfect tee up for this conversation because the three community driven processes that could replace the interim or PPS, AI, the RDS PDP, and the indication of the Whois procedure for Whois conflict with national law. So those are the three things that Stephanie and I wanted to tee up. And the question of how to reinvigorate in accomplish the objective is preempted by Stephanie's question about why bother which don't even start.

So the first one we wanted to cover is the privacy and proxy services. So in ICANN's declaration of the interim will not replace PPS AI let's have a dialogue right now about the degree to which privacy and proxy services can potentially deliver compliance with GDPR. Now Stephanie I mean as conceived are there anybody at the table who can talk to us about the ways in which the privacy proxy services available today comply or don't comply with GDPR? Tim Chen?

Tim Chen: Thank you it's Tim Chen from DomainTools for the record. I'm not an expert on this issue and as someone else in our organization who's involved but I'll make a couple comments and then other people that are involved can maybe go deeper and talk about anything that may have been discussed in that PDP. But there are some important things to keep in mind when you talk about privacy and proxy services in the context of this discussion. One is that

privacy service just uses different contact information in the registrants fairly straightforward and applicable to this discussion.

A proxy service by definition unless someone can correct me is the registrant doesn't actually own the domain name. It's owned by the proxy service. So there's an underlying ownership issue that I think in certain legal situations may be important to understand. And so I think we have to differentiate between privacy and proxy when we're talking about this issue.

I imagine there's a cost issue. I haven't gone back to reread it but I would assume the part of the spirit of the GDPR at least is not to impose undue costs onto the registrant to accomplish compliance with the GDPR. And so to the extent that these services today for the most part I believe are cost-based service. For most registrars there's that issue that we need to keep in mind as well. But I think on its surface certainly the privacy solution simply by masking in a certain way a lot of the identifiable information is in the direction of GDPR.

The other two points I'll quickly make is what happens then after the fact? And so the spirit of the GDPR is that it applies only to the EU jurisdictions as they're defined more clearly in the law. I'm not a lawyer but it's not meant to be a worldwide law. And so if you apply a service like this just in a generic fashion and it's – and this data's not available all the time to everyone in all jurisdictions on all domain names and so forth and it goes beyond the spirit of the GDPR I think we need to keep that in mind as to how it's applied.

And then lastly the gating process in the end to the extent that we end up with a tiered model of some kind what is the difference between having your data redacted by the registrar are unavailable and having it available through a privacy service when the gating process happens because at some point it

appears some of the conversations around gating are just certain qualified organizations get access to the data while if it's privacy protected they'll get access to data that's privacy protected if it's not they'll get access to data that's the actual content information of the registrant.

And then separately obviously for law enforcement and subpoena type legal things I think you're going to get it either way so it's not as relevant. But I think the gating process is also relevant to discuss. So somewhat complex issue, more complex issue than it sounds I think on the surface but in general the concept of pre-privacy as a potential GDPR compliance solution certainly has some relevance in my opinion.

Steve DelBianco: Thanks Tim. Before we go to Stephanie the four bullets on this slide are to assess the current PPS AI in ways in which it is or is not compliant. And then look at this project that the Global Domains Division or GDD is running right now. They're running the implementation of the privacy proxy service accreditation GDP. So the community is assisting GDD with implementation of this.

So this gets to Stephanie's point earlier about suspending. Well the community isn't as active right now as GDD is on implementation. So I will look to Akram and Cyrus to describe the status of implementation of the privacy proxy and try to react a little bit to Stephanie's point of view that it should all be suspended. I think that's the debate we want to have. But Tim brings up this notion that right off if you're charging a few dollars a year to a registrant that, would be not in keeping with the GDPRs requirement. Let's not let that be a barrier to the conversation because as you know registrars can bundle that into their registration price and everybody pays it. They could give it away for free as a service that they do. So solving the cost issue is not likely to be the barrier if it turned out the privacy proxy was a way to solve it.

I am told by registrars that of all the registrants in the gTLD space approximately 1/3 are using privacy proxy today -- approximately 1/3. And that's just in the G space right. But of all of those registrations that number is across a wide range of TLDs and across a wide citizens in a wide range of countries. But that's a significant portion and we'd heard in the debate about implementing a GDPR. We heard some registrars claim that they might just turn on privacy proxy for everyone. Michele used to joke about that and knowing whether he was serious as one question. Another is well if you did that would it be compliant with GDPR?

Well Tim's indicated cost is one issue and another issue is that when somebody shows a registrar evidence of actionable harm the RAA requires that the registrar either reveal information or incur the liability. And so let's think about whether the - for the lawyers in the room is the evidence of actionable harm under the RAA is that sufficient to satisfy the legitimate purposes under GDPR so that to Tim's point could a registrar revealed information of a privacy proxy and be in compliance with GDPR? So Stephanie you're next?

Stephanie Perrin: Yes Stephanie Perrin for the record. I think we made a possibly fundamental mistake in the PPS AI when we decided not to distinguish between the privacy and a proxy registration because there are important differences under data protection legislation in terms of your rights. So if we have got this far downstream -- and I must confess I haven't been paying close attention to the IRT due to all the other work -- but if we got this far downstream and it's not going to work because we haven't differentiated and the right to accrue differently because there's a lot more to GDPR than the display.

Steve DelBianco: Collection as well.

Stephanie Perrin: There's collection, there's breach management, there's maintenance, there's safeguards all the way through. There's due diligence in terms of who you release to. This is why self-accreditation is not acceptable. You have to have some standards. So, you know, there's a whole nest of things which is why I think we should put the effort on hold. Thanks.

Steve DelBianco: When Stephanie – Steve DelBianco speaking. When Stephanie reveals important questions as Tim did one option is to address the questions and if they can't be addressed entirely by staff and implementation it goes back to the community and asks for clarification for purposes of implementation. Another alternative is to simply give up on it.

ICANN teed this up. In ICANN's note on interim models the first thing they said is the interim model will not replace implementation of privacy proxy. So Akram and Cyrus I'd like to turn to you guys to talk to me about what thinking went into that statement from ICANN in the blog and number two what is the current status of that implementation and the ways in which it can be adjusted to address things like Stephanie just brought up?

Akram Atallah: Thank you all for having us here. I think that this is a topic of the year, not only the month but the year. And we've had a lot of different conversations on the GDPR. From the perspective of the privacy proxy as a solution to the GDPR it's important that it only addresses the display. But also touching on the business side of the proxy - privacy services that are provided I think they're a little bit more than just privacy in the sense that it's not only that they don't provide the names and PII information but they also provide a way to contact the registrant.

So they – most of the services provide a email or a contact information for – by the registrar where somebody who wants to contact the registrant can contact them through that and then they would forward and to the registrant on whether they want to be contacted or not. So there is some additional service in there on top of the - just the privacy and not displaying the data.

Steve DelBianco: Akram would you take an interim question? So you're speaking of the function of relay?

Akram Atallah: Yes.

Steve DelBianco: To relay information...

Akram Atallah: Yes.

Steve DelBianco: But I don't know how that has anything to do with GDPR compliance? It's – a relay doesn't reveal anything.

Akram Atallah: It's not about compliance.

Steve DelBianco: Why are we going into that?

Akram Atallah: Because you were mentioning how the service will be displaced by the – if the – if we go to private information and we don't display any of the private information how the privacy proxy can go away for the businesses. Some of the businesses have been advertising that they provide additional service on top of that so that privacy proxy this could survive or they're advertising that.

((Crosstalk))

Steve DelBianco: You'll have to address it this way then. Ozan Slide 2 please. Akram when ICANN put this word out the words in quotes are your words. You said that the interim model will not replace the implementation of privacy proxy and efforts to enhance it. So it's the opposite. The question is what did you have in mind? Is it an implementation of privacy proxy would push aside and eliminate the need for an interim model if it were enhanced and delivered appropriately?

Akram Atallah: So some of the registrars have been actually proposing that they will do – they will use that privacy proxy to take away all of the private, the PII from the Whois record that they support as a way for them for being compliant. That's been something that the registrars have been proposing as one way for them to be compliant.

Now again this is only one piece of the puzzle. The puzzle goes to, you know, collection, processing and display. It has - it addresses concerns, it addresses many different pieces that all have to come together in order for you to be compliant with the GDPR. And so the proposals that ICANN has put together or the models that ICANN has put together are based on assumptions as well as on ways to be compliant for the – of the whole GDPR enforcement and not just the display. So I'm trying to make a distinguish – to distinguish between the two.

The assumption in the privacy proxy being actually a solution assumes that you do not need consent to get the data. It assumes that you can collect all of the thick data it assumes. So there are a lot of assumptions in that proposal. So but it is one way that the registrars have been proposing to be compliant.

Steve DelBianco: Thank you. Slide 3 Ozan. So privacy proxy here on Slide 3 -- Ozan could you bring up three please thank you -- shows that privacy proxy is underway right

now, the implementation. When implementation is done the accredited providers would be providing a service in accordance to the community driven PDP and you would have implemented it. You're not supposed to reopen a PDP to (Mary)'s point in case this distinction between privacy and proxy was necessary and we didn't do it. It's difficult to adjust that along the way. But it was the first thing that ICANN brought up that it would not replace it.

So that if privacy and proxy implementation actually does solve in however it's implemented then a register who's offering that doesn't have to adopt the model. You're nodding yes. Yes they don't have to adopt the model if a register believes that their privacy proxy implementation is going to satisfy GDPR, isn't that correct?

Akram Atallah: So if they comply with the proxy privacy implementation as it is defined by the PDP and the implementation that follows the PDP then – and they want to use that for all of the registrants then they - that data will probably be compliant with that and therefore if it's not break in the GDPR then they don't need to do anything of course.

Steve DelBianco: All right so let's continue the dialogue on this. I'm going to call on Tim next because we have a couple more questions. We want to hear from Akram and Cyrus about where you are in the PPS AI because when I went online it said it was in the analyze and design phase. Where are you in that and at some point address Stephanie's questions too. Tim Chen?

Tim Chen: Just very quickly, Tim Chen for the record. I just want to clarify I don't believe that as Akram said if you apply to all registrants that that's the appropriate solution. We're trying to just be GDR compliant. The solution would only need to be applied to the registrants for which GDPR applied. So I

just want to be careful that we're not extending this beyond it's kind of natural borders.

Steve DelBianco: That's not your call. A registrar can turn it on for all registrants regardless of the country they're in. We don't have any choice in that matter and some of them could do it tomorrow. They might be overly compliant but is not official ICANN policy. It's a registrar's decision. So when you said we want to be careful I realize as a user of Whois data it won't be a happy situation if everyone suddenly switches but a registrar could do that. And registrants can pick privacy proxy today whether they live in Europe are not. Tim response to that?

Tim Chen: I was only keying off of what I thought was an assumption by Akram. You're not incorrect on what registrars can do. Obviously they're independent corporations. I would hope that there's also an opt out mechanism. There's a number of reasons registrants want their information to be public so I wouldn't want that forced on them.

Steve DelBianco: All right looking for (Ten sup), Stephanie next.

Stephanie Perrin: Stephanie Perrin for the record. I was a little disappointed with the slide this morning that the submission of the Council of Europe Convention 108 was not up there. We're not up to 122 data protection laws. Admittedly only the European ones have 4% so far although many others are updating their laws and trying to comply with the GDPR. And really the 4% is an enforcement mechanism because not much else has changed in the law from the 95 directive onwards. So I really find it again unaccountable if we proceed forward without taking into cognizance the fact that there are many, many more laws out there and there may be greater enforcement. I mean the fact that ICANN has been managing to get away with basically floating data

protection law for the last 20 years great. That doesn't mean it's going to continue.

So to force registrars and registries particularly with the reality of global dataflow to do something that puts them in jeopardy in a way where they cannot predict whose going to bite them next when it comes to data protection authorities is I think unaccountable and unacceptable. And the GNSO should not be proceeding forward with PDPs that proceed in that manner.

Steve DelBianco: Thanks Stephanie.

Stephanie Perrin: Just my view.

Steve DelBianco: And yet we cannot predict what other nations will do in implementations or fines. And yet we have to confront the laws that are in effect. And the fines that kick in in May are like Samuel Johnson said nothing quite focuses the mind like the thought of being hanged in the morning. And the 4% fine based on global revenue will create that so we are going to have to pay attention to it.

And we're not in a PDP for privacy proxy. We are at an implementation right now. We are not in a PDP so there isn't a PDP to suspend. And when it comes to implementation it's up to staff to implement and you guys all work for the same company that wrote the line that the interim model would not replace it. So you need to coordinate with legal to be sure that the current implementation where you're in analyze and design would include an analysis and a design of the degree to which the implementation would be compliant with GDPR.

Stephanie would say look in a crystal ball and be sure it would be compliant with every law that's coming down the pike. I don't know that that's practical but I agree Stephanie that they should think ahead that it's not just GDPR. On principle I understand that but I don't know how that affects one's analysis and design. Erika?

Erika Mann: Maybe just a short point on clarification. The European law is so specific and so problematic for our environment because it has extra what is called in political land legal environment extraterritorial effects. So not all laws which are designed around the globe will have such kind of affects, typical laws only impacting the national environment. Sometimes they have extraterritorial effects but just want explicit extraterritorial effects which means whoever - wherever an operator is located as soon as they touch on European data or work with European data they will have to comply.

Now again there are different ways how they have to comply with it. One has to be a little careful. So I don't think so we can I think you can create such a small entity like ICANN still is in the global environment and respect all national laws around the globe.

Now if an operator is located in India of course they have to respect the Indian law or they're located elsewhere. But I think this one, the GDPR and sometimes US law sometimes are - have this extraterritorial effect. The Chinese law actually does the new one we just debated. So we don't - but it's not like you have to comply with all national laws where independently, you know, wherever you are located and operating from -- just a tiny addition.

All right so two things I took from that is that parties have to comply with any law that has jurisdiction over the activities of that party. It has nothing to do with ICANN or the GDPR. It doesn't even have anything to do where their

ICANN is based so I get that. And that it doesn't involve just a display of data, collection and display. It involves the moving of data for any purpose at all and I get that too.

And yet all of this morning's Webinar was only about the display of data. Think about it, the whole graph that started off the Webinar this morning is about display, tiered access or not and what kind of evidence and certification's necessary to get access to the data. So I know we are focusing tightly on the display of what data into whom. Those were the two matrices and there are whole other aspects of it.

But on this slide, Slide Number 4 please Ozan we are only talking about privacy proxy in the extent to which the display, the reveal part, what the extent to which the reveal part would introduce opportunities for compliance with GDPR given that something like 1/3 of registrants already use it and some registrars have talked about rolling it out further. So it's an implementation right now Stephanie. It's not a PDP although if to get Stephanie's implementer solution we might actually have council - if council even controls this can council shut down the implementation phase of a PDP leaving aside the question of whether it should it - was what Stephanie suggested. So for sake of argument can and should you shut down the implementation of a consensus PDP? I'll take a queue on that? Akram and Cyrus tell us the current status of the implementation?

Cyrus Namazi: Thank you Steve, good morning. This is Cyrus Namazi with Global Domains Division of ICANN. The privacy proxy IRT is in the final throes actually of publishing their draft for public comment. So barring any unforeseen incidents our expectation and our goal and hope is to be able to post the draft of the policy for public comment before we all head into ICANN 61 in San Juan.

Now I have been hearing some whispering of voices more or less aligned

with what Stephanie was pointing out that some people are suggesting that maybe we should take a pause and actually wait for the dust to settle so to speak on what we're going to do with GDPR.

A couple of things to keep in mind. I think we tend to just naturally end up sort of focusing on obviously GDPR and its impact. But remember GDPR is just one jurisdiction of the world. It's in the European Union. ICANN's consensus policies are global policies. So we have to keep that in mind. And privacy proxy services are not a new thing. Privacy proxy services exist today. You know, many registrars offer it as Steve put it I think 1/3 of personal registrations actually use that service for various reasons to conceal the contact information of the registrant.

The purpose of the policy the overarching goal for it is to actually bring it into sort of uniformity and somewhat monitoring and enforcement by ICANN so there is a uniform service available. But it's not a new service per se. It has some other bells and whistles available to it.

The other thing that also I wanted to underline here is what's being said by Tim and Stephanie as well is that again we tend to really end up focusing on the display of data because that's where access comes from. And access I think is the overarching question in this whole discussion and debate within the ICANN community. But holistically looking at it as you mentioned Steve we need to be mindful that collection, retention and analysis of the data is all a part of what the GDPR requires. So even if you implement privacy proxy services I'm not sure if you could categorically say then I am now in compliance...

Steve DelBianco: Okay.

Akram Atallah: ...at this stage.

Steve DelBianco: All right so one more minute on privacy proxy. Prior to ICANN 61 you're going to publish for public comment the results of analysis and design of the implementation. So I'm going to ask you...

Akram Atallah: The draft of the policy.

Steve DelBianco: ...draft I understand, okay. You're going to publish it for public comment so that by definition says you're publishing a draft. Thank you. In the draft I'm going to ask you to address this second to last bullet. To the extent that what you're publishing this draft, to the extent you can define whether the implementation you're proposing in draft would address GDPR compliance on just the aspect of display? And you have an entire legal to add ICANN looking at it from the standpoint of interim models. Ask them to pivot over and comment. Maybe it's an annex to what you're publishing if you haven't got there so far. But you need to be - understand that if you don't address that question then many of the public comments you receive will be wondering why you didn't address it and the need to address it in the next draft.

So let's just anticipate that. I realize it's right around the corner and some of it will be speculative. But this has nothing to do with the interim model whatsoever. The interim models are - well they're interim and they'll get replaced by something. The first of the three things that could replace it according to ICANN is privacy proxy. So help us to understand that.

And if in fact your analysis shows that we probably couldn't do enough in implementation to address compliance and we're not supposed to reopen a PDP I think we end up then heading down Stephanie's path that says that well if you can't get there from here stop the progress. So your information on the

analysis of whether the implementation can and how could it be tweaked to achieve GDPR compliance only with respect to display that's all we're talking about then if we can't get there it might suggest that perhaps stopping the implementation until we change the PDP. Are there any final comments on privacy proxy? Susan?

Susan Kawaguchi: So let's go back a little bit and maybe you can clarify for me what you're recommending that the GDD staff do because if it involves the policy it has to go back to a PDP. If it's implementation then I'm absolutely fine with being creative and innovative and working with the GDD staff to make something work.

But, you know, there was a lot of hard work on that - the PPS AI to develop a policy, a lot of hard-won compromises I think. In my opinion I saw compromise which is a good model for ICANN community. And to actually, you know, turn around and say, "Oh well let's just tweak this or change it as long as it doesn't involve policy I'm fine." What we may have found ourselves in a situation with is we develop policy and the world has changed.

And I think we move forward with the implementation plan, make a decision. Once we have that plan completely ironed out maybe we do a review then and say, "No this isn't going to work and then we start another PDP heaven forbid." But, you know, I...

Steve DelBianco: Okay so you asked for clarify I'll clarify then. But my request to GDD is that they're already publishing an implementation draft before ICANN 61. My request was add to the end of that a discussion from ICANN point of view staff and legal about whether this implementation would be compliant with GDPR only with regard to display and if not what would have to be done to make it in their opinion compliant? Some of those will involve tweaks to

implementation and some might involve revisiting the policy. We'd like to understand that. ICANN should tell us that whether or not they involve having to reopen the policy because those become huge barriers to just continuing on with implementation.

On the other hand it might be that the implementation can proceed in a way that is compliant with GDPR without violating. So I don't know the answer to your question Susan and I'm asking staff to give us the information we need to help answer that question. And it's all coming out in the next two weeks.

Susan Kawaguchi: Can staff give us that information? I would think yes...

Steve DelBianco: Well if ICANN can...

((Crosstalk))

Susan Kawaguchi: ...(unintelligible) law firms and maybe we'll get some sort of consensus.

Steve DelBianco: Susan ICANN is determining which of the eight models it's going to pick. So they clearly have the capacity of determining what technical implementation is compliant with GDPR for purposes of ICANN. They're doing it right now in the interim model. Whether they're capable or not is besides the point. So if they're doing it for that they should do it for PPS AI. Hands up. I can't see from here.

Vicky Sheckler: Hi. It's Vicky. A couple of points. First the IPC did submit a legal memo to the RDS and to ICANN on GDPR which does touch on privacy proxy. It doesn't answer it completely but it does touch on it. I would encourage you to look at that. Second when you think about something whether it's GDR compliant or not you need to have a something. So saying stop the

implementation process because we don't know what's going to have a GDPR quite frankly in my view is a nonstarter.

You cannot ask a lawyer to tell you whether or not something's going to work from a compliance perspective if you don't have the rules of the road there. So I think suggesting to stop it is completely ridiculous especially if it's almost done.

Steve DelBianco: Yes policy itself is hard to evaluate but an implementation is – you can – you have a fighting chance of evaluating a proposed implementation. Stephanie?

Stephanie Perrin: Thanks Stephanie Perrin for the record. Just to be clear I'm not talking about killing the – all of the work of the IRT. I'm talking about putting on hold until we have more clarity. I do think we need legal clarification as to whether there is a difference between privacy and proxy with respect to the GDPR. I haven't seen that yet. I have a whole pile of legal questions that I'm eventually going to send in. I realize the ship has sailed but there's only so much we can do, you know. Certainly questions along that line are there.

It's not as if we don't actually have privacy proxy services out there right now. What we don't have is accredited privacy proxy services. So, you know, I think that we can still work with what we've got and to - and put this on hold until we have greater clarity. Thanks.

It would be a shame I agree with Susan that was a great PDP. We made some compromises. If we did not foresee that there would be a legal difference between a privacy and a proxy then I think it's a fix. I don't think it's throwing everything out. I think it's a distinction that could be reinserted. Thanks bye.

Steve DelBianco: Thanks Stephanie, that's encouraging. The last bullet on here Stephanie and I added when we were designing the slides which is let's not be absent-minded about the cost the privacy proxy service providers would have to incur as they're receiving requests for law enforcement and other parties requests to reveal if they have to take on the fact of ascertaining your certification or some other way authenticating then there are manpower costs some involving legal work that every registrar would need to do in responding to requests that come in. So I think Stephanie that was the point of that last bullet is we need to be conscious of those costs.

All right thank you everyone. Ozan move to the next slide please. This is the second of three. I think that go ahead Akram, Cyrus?

Akram Atallah: So thank you Steve. This is Akram Atallah. Just for the record we're not sure yet which model is going to be adopted. And some of the models do have private information that will be displayed. So the privacy proxy could still be a viable solution for people in the future. And I think that we are at the point where we should continue like we always do, follow the PDP and then implement all of the PDPs. And along the way I think the downside of it all is we would have done some work where nobody will apply for accreditation because there's no value of it but it will be there and so we will get back to you also on the analysis that you requested so...

Steve DelBianco: Thank you. And our analysis has nothing to do with the interim model whatsoever. The question is does the privacy proxy policy that we adopted and your implementing how would it have to be changed to make it GDPR compliant and if so your judgment about whether that involves reopening the PDP or is consistent with the PDP? An annex to your draft along those lines would anticipate the questions we would all have to ask. All right so we're moving on – sorry go-ahead (Raul)?

Raoul Plommer: Yes I think Tim Chen started with the right angle here by saying that you can't really charge people for them to have their rights to privacy in this case.

Steve DelBianco: Easy to solve. The registrar might choose to give it away rather than spend the money they have to spend in other ways to comply with the model. It helps the registrars.

((Crosstalk))

Raoul Plommer: (Unintelligible) do it for free you can't do it. You can't make it GDPR compliant.

Steve DelBianco: I understand. So it would have to be bundled into their price and they have to recover the cost. It's just the cost of doing business. That's a business decision not up to us in this room. If – I think we've accepted right on that one way you would not comply with GDPR is if you made it an incremental cost. I think we passed that – crossed that bridge a while ago.

The second parallel process -- and this should be a shorter discussion -- is that ICANN's blog about the model said that the interim models will not replace the procedure, find updates to the procedure for Whois conflicts with privacy law. And I have a couple of bullets on there and a question that we point to ICANN last week where we asked well why isn't the current procedure let alone the enhancements that are under evaluation, why isn't the current procedure being used because it has a lot going for it?

Well the answer that Goran and JJ gave us last week as interpreted by Jeff Neuman was that the procedure only really helps a registrar or registry but it doesn't help the entity called ICANN org who felt like it might have a

compliance risk. So I believe that what Goran told us is that as far as ICANN org is concern this procedure won't solve the problem. Therefore they haven't invoked it here. Whether they can or could invoke it is beside the point but ICANN did not invoke it and has instead gone on the path of an interim model.

So that means that the procedure is still available to registrars and registries to use. And one of the questions is do we need to come up with a better trigger other than the current triggers which a proceeding is being done. And we have an alternate trigger. And I understand we as a community are evaluating this process to see whether the trigger can be activated by the kinds of actions like a guidance from the Data Protection Board or from the European Commission.

So to what extent does the room feel as if this procedure deserves further community attention as we're implementing the interim models for the time being? Who's familiar with this procedure and its implication and use? We'll go first to Stephanie and then Cyrus.

Stephanie Perrin: Stephanie Perrin for the record. I put in my comments to the GDPR proceeding that this is basically backwards that there many mechanisms by which an international organization whether it's a corporation or any other kind of an enterprise can meet European Data Protection Law in a harmonized way. And that is the binding corporate rules, contractual clauses, you know, those mechanisms are all up there. But ICANN has not developed a policy that meets a high standard after which of course if there are particular jurisdictions that do not wish to meet the privacy policy you could have a Whois conflicts with data protection policy provision that would allow states that do not wish to enforce their end-user rights to drop out of the policy.

But given the current environment it makes more sense to stand this policy on its head and reverse it and make it adopt a high standard globally. So that makes this whole proceeding I think rather a waste of time. We've already had a very contentious Whois conflicts process a couple of years ago. I don't see that we're gaining anything here particularly to proceed right now when we – there's so much lack of clarity as to what's going on. Thanks.

Steve DelBianco: Thank you Stephanie. And I'm going to turn to Cyrus next. But keep in mind that this procedure exists and is approved by the board and it could be used at any time. Registrars, registries can invoke this procedure. And when they do it involves consultation and public comment if it were an alternate trigger and it requires ICANN board approval. So at least it's far more transparent and consultative I think than the current selection of an interim model but it's procedure that exists. I think what Stephanie was arguing is the community shouldn't have spent time updating the procedure which is currently under way -- and Cyrus will clarify -- but we talked about every year I believe there's a requirement that we update this procedure and that's a community and staff cooperation. Cyrus?

Cyrus Namazi: Thank you Steve. This is Cyrus. So just to level set on the reason for the existence of this procedure the primary goal here behind this procedure was to ensure that all of our contracted parties have a mechanism to comply with their local jurisdictions laws in contrast with the ICANN contract so if the ICANN contract by any chance actually exposes some contracted party to end up having in the course of fulfilling up their obligations under the contract being in violation of their local law this law, this is the mechanism for them to come back to ICANN and essentially engage in a conversation to get a waiver or the provisions that the contract that are engaged in law. So this is sort of the overarching goal for this procedure.

Now there are two ways that this mechanism, this procedure can be invoked. And our difficulty on the staff side on the GDD and org side has been that the bar has been set so high that in fact no one, no contracted party has actually been able to effectively successfully invoke this with one exception, the recent exception I can talk to that.

And these trigger mechanisms are either whether you're actually being prosecuted by your local law enforcement or you get a letter from your local the data protection authority and neither one of which has proven to be realistically feasible for an operator to really do. And I quite frankly sympathize with our contracted parties. So twice we have actually opened this procedure and taken it to the community in hopes of making it more realistic, more doable, more feasible.

And the second time which is now it, you know, ended up in the hands of the council because the IRT that actually looked at it couldn't reach consensus to essentially bring the bar for the triggering mechanism down to a realistic level. That's where it's at. It's with the council. And I think the latest that I know is that they're going to put together a working group to review it and sort of go forward. But it's taking too much time for us to revisit this.

Steve DelBianco: And if it doesn't get revisited it's still available for a contracted party to use today. It may not be practical and useful enough and yet JJ, General Counsel of ICANN said only an hour and a half ago when asked by a registrar what would happen if we didn't feel that the model was compliant with our local laws? JJ's answer was that you would use this procedure. You would evoke this procedure assuming you could meet the trigger requirement right? You need a proceeding or a letter. You'd invoke that procedure and then we'd go down that path to determine whether we had to get allowance and compliance. So there's an anticipation that as registrars and registries implement or don't

implement the model that they will in fact invoke this procedure. But the process that Stephanie said let's stand it on its head I suppose Stephanie we can't stand this procedure on its head. It's already in existence and approved by the board. You were speaking of the process of updating it? That's what you would put a pause on?

Stephanie Perrin: No. I actually think the procedure should be stood on its head. I think that registrars and registries should be able to determine whether in fact they are compliant with their local laws and if they're not then they should take steps to come into compliance. I don't think they should have to consult ICANN's legal counsel and go to a public comment period. There are so many things that are utterly stupid and difficult -- I'm sorry I'm being blunt here -- with this policy that I can't imagine it is still -- you're still putting it forward at this point in time. I can't imagine how the members of the Article 29 working party are going to review any suggestion that this is a decent policy because quite frankly it is not up to ICANN legal counsel to determine whether or not the law is the law in a particular country.

The procedure itself and I said this repeatedly during the last IRT or IAG on this topic I'm quite familiar with the Canadian law having spent ten years working on it and being the director for the drafting. I'm well aware of the powers that the Canadian privacy commissioner has. She would have to go to court to come up with the order that is required under this policy. By that point the particular unhappy registrar or registry would be all over the news. There is no such thing as good privacy news.

Nobody will understand the intricacies of this. And I think it is absolutely unconscionable for ICANN to impose that kind of burden on their contracted parties. I speak only for the Canadian law but I mean we can look at the other 122 if you like and see whether it works any better in Australia, Korea, South

Africa, you know, you name. It's stupid and it is time to abandon it and go to something more reasonable. Thank you.

Steve DelBianco: Thank you Stephanie. If it's truly stupid registrars and registries simply won't invoke it. So we don't have to abandon it. They won't use it. That's the first reaction. The second is that it's not policy at all. It's a procedure. It isn't policy. It's a procedure. And the third point is that it has really nothing to do with GDPR. It's a procedure that can be used for any country Canada included. So it may be necessary to keep this procedure around so that it can't be used by a contract party completely outside of GDPR.

So the procedure exists, the debate in front of us is whether council should or should not seek ways to improve it such as reducing the trigger. And if that's the only question before us because Cyrus has indicated that currently council is stalled on the question of whether and how to reevaluate the triggers.

So what is the sentiment in this room? Should – what does NCPH say about it? How many of you feel we should proceed to update this procedure -- it's not a policy -- we should update the procedure to make it easier to trigger versus abandon the effort of updating the procedure, show of hands? How many think we should update the procedure to make it easier to trigger? Only one hand. Only one hand.

And how many feel that we should just no longer update the procedure? How many feel this procedure should be left alone? I see no hands. And how many don't have any idea what I'm talking about? Okay Susan. Susan called on you.

Susan Kawaguchi: Thanks Steve. Sorry we're having a debate up here at the end of the table only because I'm a bit confused. And maybe it's a case of I increasingly feel like

we haven't done ourselves a great service here by having this meeting immediately follow on the heels of council having got together for three days because there haven't been an opportunity to consult with the community about what we did in those three days.

So one of the things that was on the January agenda for council -- the meeting took place on Tuesday -- we seized the opportunity to meet face to face -- was as an agenda item as a motion was this procedure that we're discussing here. And that was moved to the February agenda not for reasons relating to the substance of the procedure but for the formation of a group to consider the stuff we're talking about now.

So this conversation is premature. We haven't yet formed that group. We were unable to pass the motion not because of the content of the charter that would lead to the formation of that group but simply because of the wording of the motion and how the wording of the motion should take into account GDPR. So there's a segue here but it's a very nuanced segue. And I'm very concerned that I have to go back now and report to councilors who aren't in the room and say the NCPH is several steps ahead of council as a whole. So I'm very confused as to where we are. Thanks.

Steve DelBianco: Thank you. The reason this is here is that when ICANN announced the interim models they said the interim models will not replace three things Heather. And this is one of the three things. And so the question is what can the community do to move this procedure ahead? What NCPH is doing is trying to understand what the community can do as opposed to ICANN compliance who's acting unilaterally with an interim model. And this is one of the three threads.

So asking the question of where is it in council and thank you for answering. I now understand. We've heard an opinion from Stephanie and very little other opinions here so I don't really think we should spend any more time on this procedure. Two hands up, Heather and then Tim.

Heather Forrest: Thanks Steve. As a point of order the council agenda was distributed to the community ten days prior to the council meeting so we all knew that this was on the council agenda for January. We knew at that point that what was happening was just a discussion around the formation of the group. We haven't even called for volunteers.

So I do think we knew in planning the NCPH - I take all your points about this is live and we need to discuss it. But we have been on notice as a community as to what council would be facing in January. So I'm concerned that we went this far down this road knowing all of that. Be that as it may that's where we are and I fully support your final interjection Steve which is let's let council do the process that it needs to do and then come back to this. Thanks.

Steve DelBianco: Yes thank you. And we surfaced if nothing else at the intersessional I love to surface what does the NCSG feel in the CSG? And we've surfaced a potential opinion. It wasn't shared by too many others but give up on this and shut it down as I think what Stephanie's point was. And I have Tim Chen and then Vicki. Sorry I'm sorry it's Dean. Go ahead Dean.

Tim Chen: Thank you Dean. This is Tim Chen. Briefly I just wanted to say that I think absolutely we need to be talking about this and it's very relevant and appropriate to be doing it in this forum. It is clear from all of the comments specifically from this morning's 7:30 Webinar that a number of contracted parties are going to find themselves in a situation where they are forced to make a difficult decision.

In a situation like that you have to have a procedure to follow. We have a procedure to follow. All of these comments about standing down from working on a procedure, standing down from in the previous example about making progress in the PDP I think it's very dangerous to disempower ICANN by just letting contracted parties or in this case European DPAs drive the agenda of this organization. And I think there's an awful lot of rhetoric here about same let's just stop doing what we're doing and let other people make these decisions. And I for one wanted to vote for ICANN to stand up and say, "Hey we have a very relevant role to play. We have procedures. We have policies. We're going to follow them. We're going to continue them. And we're going to make sure that we're part of the solution not just stand aside because some people want us to.

Steve DelBianco: Thank you Tim. Dean Marks.

Dean Marks: Yes I'd like to endorse what Tim just said. And also I'm a newbie to this whole process but Steve Metalitz has been informing – I'm sorry. Sorry, Dean Marks here. I'm new to this group but I wanted to endorse what Tim said.

And also I've been in contact with Steve Metalitz about a lot of the work that's gone on in the PPS AI process. You know, and as I think Susan noted that there have been a lot of hard work and compromises that have been brought and achieved. And Steve I understand you're asking a lot of questions to provoke, you know, conversation and discussion but I wouldn't want this group to think that the whole Commercial Stakeholder Group as a whole wants to stop PPS AI or turn it off or turn it on its head or that if it doesn't answer the whole GDPR problems that, you know, we as a community face it's worthless.

I – there are many of us I believe who do not share that viewpoint frankly and who want to see the work continue and who acknowledged that it may answer some of the GDPR challenges that we as a community face but it doesn't answer all of them. But it shouldn't be tossed aside just because it doesn't answer all of them. Thank you.

Steve DelBianco: Thanks Dean. And all credit to Stephanie she's being provocative at my invitation by suggesting something. And it's designed to surface the degree to which this group commercial and noncommercial agrees or disagrees with this notion of parking or standing these things on their head. And so I'm – I don't believe either from the standpoint of the Business Constituency that we should do anything to slow down the implementation. We should have then an understanding of how the implementation would or would not and how it could be tweaked to comply with GDPR. And I know this procedure exists. There's no – you can't get rid of the procedure. And I do think from the BC that we would want to see work on the procedure to improve it continuing. I have Stephanie and then we'll move on to the RDS PDP. Stephanie?

Stephanie Perrin: Yes let's be clear -- Stephanie Perrin -- for the record that I'm situating my remarks in the context of PDP burnout, shrinking revenues, greater accountability of the GNSO for its activities and it's PDPs and what I perceive as a coming showdown between GDPR and ICANN. And quite frankly the presentation that we got this morning shows that ICANN will be proceeding forward on pretty much the route that it has followed for the past 20 years with minor modifications.

That is a bit disappointing because I think it accelerates the likelihood of that showdown and doesn't show a nuanced approach to its responsibilities as a data controller. So I don't propose throwing existing work out and saying this is no longer valid. You have privacy proxy services. You're going to need

them probably to avoid getting sued. You have a Whois complex with law policy that registrars say doesn't work. Best of British luck. See if you can get it to work if you need it because you're going to need it in the short term.

I'm just saying let's not start another stupid Implementation Advisory Group to try and figure out how to make this work when it's basically backwards. Why don't we look at proper compliance? There are other mechanisms to do this. Thanks.

Steve DelBianco: Great segue to our last slides. So Ozan Slide 6. We have two slides on the RDS PDP. The RDS PDP is the third of the three measures that the interim does not replace. And a personal observation is the RDS PDP. I've not been on that group but my observation is that over the last several years there hasn't been sufficient motivation to achieve compromise in that group for instance to move towards tiered access.

If there's satisfaction with the status quo on behalf of law enforcement and parties that use an open Whois there isn't sufficient motivation to move to compromise on a PDP. The good news about the interim models are that if the interim models are sufficiently unsatisfactory -- because you've indicated that it's going to cause a confrontation -- that none of the interim models are going to make privacy advocates happy. And if none of the interim models are going to make -- I should say this. If ICANN selected interim model doesn't make private advocates happy and ICANN selected interim model doesn't make law enforcement and the business community happy and if it doesn't make the registrars and registries happy well then maybe that's the ingredient we need to motivate compromise in the community's work because the RDS PDP is our work. It should continue without regard to the interim model but we should be able to learn about as the interim model is rolled out to motivate the RDS PDP and to inform things we need to tweak at the end solution.

It could be the RDS PDP would embrace the interim model that gets selected or tweak it in certain ways and come up with a policy. We then turn it over to Akram and Cyrus for implementation. And when that's implemented by the time it's implemented the data protection board will be in place and can give us a binding opinion on it.

So we had a lot of hands in this room of people that are involved in the RDS PDP. And we have two slides here that Stephanie and I wanted to do to this, stimulate questions for this group. So the current status in a word I understand is stalled in a word. Anyone want to give me a different word? What is the current status -- just shout it out -- of the current PDP? Christian?

Christian Dawson: Stalled is good yes, stalled is good one. There are yes there are segments of on opposite sides that are embedded in their positions I would say.

Steve DelBianco: Why would that embedded continue when confronted with an interim model that's unsatisfactory because you can't -- the status quo is no longer open Whois. Within a few months it won't be open Whois anymore. So that new status quo...

Christian Dawson: I agree completely. And I actually think that now is a great time for us as a community to take a look at the facts that we're going to end up likely -- we're not going to move from a gated interim model to a non-gated NexGen RDS. It's simply not going to work. And when we move to an RDAP based system which is the only thing that we can do because Whois is a simple query and response protocol that doesn't have the method to reflect the difference between a natural person and legal person, it doesn't have the method to track consent right, we are going to have this accreditation process. It's just the fact.

And so now that we're clear about that we can probably figure out how to make steps forward. Now I've been thinking about this a lot. The Intellectual Property Community and law enforcement they have a way in. They're not afraid to get accredited to go ahead. They're well organized. But we take a look at the anti-abuse community, the cyber security community, the research community and they've got problems. They're not as well organized and not willing to make those moves. Now is I think the chance for all of us to get on the same page to basically learn from you guys in IP on how to bring over – everybody over to the reality of this and figure out a way to formalize things that gets us past these embedded situations. Thank you.

Steve DelBianco: Thank you Christian. Any other assessments for how to answer these questions up here, how to accelerate this PDP and how do we incorporate operational experience because while this PDP is underway registrars will be implementing certain measures and may be based on ICANN's model and maybe not. And we will learn through the way law enforcement reacts to them. We'll learn how courts interpret it.

We'll also learn how registrars and registries are dealing with the operational difficulties of implementation. All that is supposed to feed into the PDP so we arrive at a better place. Sam?

Sam Lanfranco: Yes maybe this is an appeal from an academic but I'd also like to see this particular working group be used as to be examined for how the existing procedures for the working groups have flaws.

Steve DelBianco: Thank you Sam. A final bullet on this slide is the Whois Review Team. It's one of the mandated reviews, community driven reviews in ICANN bylaws that were brought in the bylaws from the affirmation. How many in this room are involved in the review team of Whois? Stephanie, Susan only and Erika

Mann. We put this bullet up here to quickly ask the question is the work of that Review Team which kind of looks backwards in implementation and recommendations but is their work relevant to this PDP? Stephanie or Susan, Erica?

Susan Kawaguchi: Susan Kawaguchi for the record. I don't really feel like the Review Team work is relevant to the PDP. It is relevant to the Whois current situation Whois. And I think it's really relevant to just our independent review of, you know, where has ICANN been, where is it going, how is it developed? How is it improved?

And so I am very confident that there's a reason to have these reviews and to keep this one on track but limited. We're not looking at the next generation RDS, you know, so I mean there's – I had a meeting with compliance last night that was pretty impressive. I think that's the community needs to understand that yes from the 2012 Whois Review Team report to the RDS Review Team now there's been some remarkable changes and I think we should applaud that.

Steve DelBianco: When will we see a draft recommendations from the Review Team?

Susan Kawaguchi: Yes well we're a long way from that so...

Steve DelBianco: Think it will be 2018?

Susan Kawaguchi: Yes.

Steve DelBianco: Thank you. All right so that's the Review Team. Ozan last slide please. Next one. These are an extra set of questions. I think that Christian Dawson would answer the first question with a yes. Is the tiered access model becoming

inevitable and thereby attracting consensus becoming inevitable thereby attracting consensus? Does anybody wish to differ with the notion of tiered access or gated access as where this RDS PDP is going to end up?

Do we need to do a privacy risk assessment? Stephanie you brought this up the other day suggesting that in the course of the PDP it may be necessary to take a policy and try to do a risk assessment against it. Is that – that was the question you proposed, the EU privacy risk assessment? Go ahead Stephanie.

Stephanie Perrin: I can't actually remember in what context I said that. I mean a privacy risk assessment is how you start analyzing whether you're meeting privacy law. So – and policy so it applies everywhere.

Steve DelBianco: All right thank you. I put it on the slide when you brought it up. Maybe I put it in the wrong place. And then other national laws matter too. The RDS PDP shouldn't look exclusively at the GDPR but rather the – as Erika was describing earlier the broader implication of similar type laws across the world. There are costs incurred by the parties who do the accreditation and the parties that seek accreditation. And those costs should be incorporated in what the PDP looks at.

And then finally we need to look at methods I think in that PDP, methods of accrediting and authorizing in the tiered access model. So I would suggest in wrapping up that I believe there is some reason to be optimistic that the community has control of at least three processes. And the community can accomplish the goals, get those processes implemented because they replace whatever it is ICANN is doing with an interim model and that is at ICANN's acknowledgment the community work should go on.

So that concludes our 9:00 to 10:30 segment Slot H. And I think we're going to move to Slot I next which is Vicki Sheckler and Tatiana Tropina.

END