

## **21 Members**

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David Cake

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Farell Folly

Greg Mounier

GZ Kabir

Herb Wayne Ombuds

James Galvin

Kris Seeburn

Marc Anderson

Maxim Alzoba

Rod Rasmussen

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Stephanie Perrin

Tapani Tarvainen

Tim Chen

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## **Apologies:**

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## **AC Chat transcript Next-Gen RDS 24 January 2018**

Michelle DeSmyter: Welcome to the GNSO Next-Gen RDS PDP Working Group teleconference on Wednesday, 24 January 2018 at 06:00 UTC

Michelle DeSmyter: Agenda wiki page:

[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_community.icann.org\\_x\\_RgByB&d=DwIFaQ&c=FmY1u3PJp6wrcrw113mSVz\\_gfkbPSS6sJms7xc14I5cM&r=8\\_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe\\_5iHWG1BLwwwehFBfjrsjWv9&m=hPgVSf86XDU9cwwWhM7rZXPg\\_x\\_SvPvQYbX8BQL7v4&s=gpAKeBgj5tH5k4S1Ahw1B0z78NNMd0oZfgMia8XiC90&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_x_RgByB&d=DwIFaQ&c=FmY1u3PJp6wrcrw113mSVz_gfkbPSS6sJms7xc14I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWG1BLwwwehFBfjrsjWv9&m=hPgVSf86XDU9cwwWhM7rZXPg_x_SvPvQYbX8BQL7v4&s=gpAKeBgj5tH5k4S1Ahw1B0z78NNMd0oZfgMia8XiC90&e=)

Stephanie Perrin: Is there no sound, or is it me?

Stephanie Perrin:thanks!

Michelle DeSmyter:Hi Stephanie - were you able to hear me?

Michelle DeSmyter:perfect!

Stephanie Perrin:yes

Stephanie Perrin:A slim crowd indeed tonight....

Herb Waye Ombuds:Hi everyone I can only hang around a few minutes, am attending a human rights conference in Estonia

Maxim Alzoba (FAITID):Hello All

Maxim Alzoba (FAITID):this time of the meeting is more EU friendly

Lisa Phifer:Call Handout:

[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_community.icann.org\\_download\\_attachments\\_74580038\\_Handout-2D24January-2DRDSWGC11-2Dv2.pdf&d=DwIFaQ&c=FmY1u3PJP6wrcrwl13mSVzgfkbPSS6sJms7xcl4I5cM&r=8\\_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe\\_5iHWG1BLwwwehFBfjrsjWv9&m=hPgVsf86XDU9cwvWhM7rZXDPg\\_x\\_SvPvQYbX8BQL7v4&s=CJmCy05YnCrTBC5E\\_Z0Tns\\_PeL2drCT0ujaEJFY7LLpY&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_download_attachments_74580038_Handout-2D24January-2DRDSWGC11-2Dv2.pdf&d=DwIFaQ&c=FmY1u3PJP6wrcrwl13mSVzgfkbPSS6sJms7xcl4I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSF04VShFqESGe_5iHWG1BLwwwehFBfjrsjWv9&m=hPgVsf86XDU9cwvWhM7rZXDPg_x_SvPvQYbX8BQL7v4&s=CJmCy05YnCrTBC5E_Z0Tns_PeL2drCT0ujaEJFY7LLpY&e=)

Lisa Phifer:You should have scroll control

Maxim Alzoba (FAITID):it looks tire remote control with left-right

Maxim Alzoba (FAITID):\*like

Tomslin Samme-Nlar:Australia friendly too :-)

Alex Deacon:using the "outline" on the right seems to work

Marika Konings:You can use the arrows at the bottom of the pod instead of the play optioin on the right hand side

GZ Kabir:Asia as wll

Benny Samuelson / Nordreg AB:You can just click on the page description on the side

Lisa Phifer:We are now on slide 3 (agenda item 2)

Kris Seeburn:sorry for beng late...

Kris Seeburn:hi to all

Maxim Alzoba (FAITID):we need to be aware that it might not be a single point of processing (some items processed by registries, some by registrars - at least until we come to a conclusion that not all items should propagate further than registrars level, like it is currently done with some of customer's relation info)

Rod Rasmussen:ICANN Mission for a reminder: Section 1.1. MISSION(a) The mission of the Internet Corporation for Assigned Names and Numbers ("ICANN") is to ensure the stable and secure operation of the Internet's unique identifier systems as described in this Section 1.1(a) (the "Mission"). Specifically, ICANN: (i) Coordinates the allocation and assignment of names in the root zone of the Domain Name System ("DNS") and coordinates the development and implementation of policies concerning the registration of second-level domain names in

generic top-level domains ("gTLDs"). In this role, ICANN's scope is to coordinate the development and implementation of policies: For which uniform or coordinated resolution is reasonably necessary to facilitate the openness, interoperability, resilience, security and/or stability of the DNS including, with respect to gTLD registrars and registries, policies in the areas described in Annex G-1 and Annex G-2; and That are developed through a bottom-up consensus-based multistakeholder process

Lisa Phifer:@Rod, thanks for copying that into chat - the Mission can also be found on slide 10 of today's handout

Rod Rasmussen: That are developed through a bottom-up consensus-based multistakeholder process and designed to ensure the stable and secure operation of the Internet's unique names systems. The issues, policies, procedures, and principles addressed in Annex G-1 and Annex G-2 with respect to gTLD registrars and registries shall be deemed to be within ICANN's Mission. (ii) Facilitates the coordination of the operation and evolution of the DNS root name server system. (iii) Coordinates the allocation and assignment at the top-most level of Internet Protocol numbers and Autonomous System numbers. In service of its Mission, ICANN (A) provides registration services and open access for global number registries as requested by the Internet Engineering Task Force ("IETF") and the Regional Internet Registries ("RIRs") and (B) facilitates the development of global number registry policies by the affected community and other related tasks as agreed with the RIRs

Rod Rasmussen: (iv) Collaborates with other bodies as appropriate to provide registries needed for the functioning of the Internet as specified by Internet protocol standards development organizations. In service of its Mission, ICANN's scope is to provide registration services and open access for registries in the public domain requested by Internet protocol development organizations.

Kris Seeburn: agreed...

Alex Deacon: just had a small earthquake here in SF. fun!

Maxim Alzoba (FAITID): but we might miss transborder transmission :( which is way worse than just transmission from point of view of privacy laws

Kris Seeburn: that is the actual challenge

Kris Seeburn: it is data transmission

Maxim Alzoba (FAITID): but I am not sure we need to add transborder transmission so actors can resolve it themselves later

Kris Seeburn: so yes we may have to ensure that between all parties it should not be an open text....

Tomlin Samme-Nlar: no objections from me

Kris Seeburn:@ chuck at Least it is being taken care of at this point....if we have issues we can come back to it.....

Lisa Phifer:Proposed WG Agreement: Criteria to be used to determine whether any proposed purpose is legitimate for processing data are: a) In support of ICANN's mission; b) A legitimate interest pursued by the data controller; c) Necessary for the fulfillment of a contract; d) Inherent to functionality of the DNS; e) In the public interest; or f) Necessary for compliance with a legal obligation.

Maxim Alzoba (FAITID):That's what I meant - open ended list of "contracts"

Maxim Alzoba (FAITID):also GDPR does not see legal obligations of non-EU companies before their jurisdictions as valid reasons (as far as I know), for example

Stephanie Perrin:In principle yes, the criteria are reasonable, but they must always be interpreted.

Kris Seeburn:we should put a note on this point

Kris Seeburn:And we can come back to it....

Kris Seeburn:but it has its importance

Alex Deacon:+1 chuck. agree we move forward.

Lisa Phifer:Proposed WG Agreement: Criteria to be used to determine whether any proposed purpose is legitimate for processing data are: a) In support of ICANN's mission; b) A legitimate interest pursued by the data controller; c) Necessary for the fulfillment of a contract; d) Inherent to functionality of the DNS; e) In the public interest; or f) Necessary for compliance with a legal obligation.

Kris Seeburn:no as far as we keep a note to it to revisit in case we have a situation

Tapani Tarvainen:So I take it we agree that these criteria sound like with a detailed definition we don't yet have they could be good,

Stephanie Perrin:Reasonable guidelines, but not determinative, in my view.

Lisa Phifer:Green check if you agree with above proposed WG agreement, red X if you object

Kris Seeburn:just ensure we keep a note of a revisit just in case

Benny Samuelson / Nordreg AB:I am just a little concerned that we base things in the future talks on something which can be changed

Kris Seeburn:so we are not lost

Stephanie Perrin:Yes I think we need some kind of qualifier on this....otherwise some of us are going to have to object.

Herb Wayne Ombuds:Gotta run... have a great day all.

Stephanie Perrin:Have a great conference Herb!

Lisa Phifer:Use arrows at bottom left of the slide  
Lisa Phifer:We are now on slide 4 (agenda item 3)  
Rod Rasmussen:@Alex - Did not feel the earthquake just north of Santa Rosa, so must have been really small!  
Alex Deacon:@rod - 2.7 south of gilroy.  
Kris Seeburn:Academic or Public interest research would need some kind of approval than let it details out...  
Rod Rasmussen:@Alex - ok, that's just known as "a day in Northern California"!  
Kris Seeburn:in the definition it is a bit too open  
Alex Deacon:@rod - right - pretty small.  
Rod Rasmussen:@Chuck ;-)  
Kris Seeburn:we could just put a note to the definition on agreement of the party or parties concerned  
Tapani Tarvainen:The purposes as listed are a bit wide. In many cases I'd be happy to say \*something\* under the definition satisfies a criteria yet something else under it might not.  
Maxim Alzoba (FAITID):I see it as bit wide too  
Stephanie Perrin:I must say that summarizing in 10, 11, and 12, makes it sound like the purpose is criminal activity, not investigation of criminal activity.  
Tapani Tarvainen:@Steph :-D  
Kris Seeburn:agreed with steph  
Maxim Alzoba (FAITID):+1 Stephanie , prevention or investigation sounds way better  
Stephanie Perrin:I think maybe Prevention, or Fighting would help  
Maxim Alzoba (FAITID):prevention would allow to avoid investigation of investigation  
Maxim Alzoba (FAITID):which is weird  
Rod Rasmussen:@Stephanie - DNS abuse is included in all three which gets outside of "criminal activity" per se.  
Lisa Phifer:@Stephanie, I think it's Investigation of Criminal Activity/DNS Abuse, Notification of CA/DA, etc  
Rod Rasmussen:Prevention is something that is facilitated with RDS data, but is a bit outside of things we've discussed on-list.  
Stephanie Perrin:indeed....  
David Cake:academic institutions generally have their own ethics etc processes. we do not have to assume that a possible purpose always satisfies criteria, but we can take into account relevant external processes - probably in phase 2 discussion.  
Tapani Tarvainen:Does the slash mean "or" or "and"? That is, does that exclude investigation &c of non-criminal DNS abuse?  
Kris Seeburn:@ david yes i agree  
Kris Seeburn:thats what we need to put a note  
Kris Seeburn:so even with process they could just release

information without consent

Rod Rasmussen:I would say and/or

Rod Rasmussen:They overlap sometimes bt not always.

Kris Seeburn:that could work yes

Tapani Tarvainen:ok

Lisa Phifer:Proposed WG Agreement: The following purposes for processing registration data satisfy at least one of these criteria: Technical Issue Resolution; Academic or Public Interest Research; Domain Name Management; Individual Internet Use; Domain Name Certification; Domain Name Purchase/Sale; ICANN Contractual Enforcement; Regulatory Enforcement; Legal Actions; Criminal Activity/DNS Abuse - Investigation; Criminal Activity/DNS Abuse - Notification; Criminal Activity/DNS Abuse - Reputation

Lisa Phifer:(where "these criteria" refers to those listed in the other proposed WG agreement)

Kris Seeburn:we can say that refers to the other six criteria

Lisa Phifer>Note the proposed WG Agreement refers to "processing" not just collection

Kris Seeburn:mainly for criminal use

Marika Konings:collection of data has only been agreed to date for technical issue resolution and domain name management

Marika Konings:as Lisa noted, we are now discussing processing (including access)

Tapani Tarvainen:+1 @Steph. Academic research by itself does not justify collecting data that otherwise wouldn't.

Alex Deacon:+1 Lisa/Marika.

Kris Seeburn:Suggest we move along but we put a note to revisit the wordings

Tapani Tarvainen:Earlier quoted HDPR definition of processing includes "collection"

Tapani Tarvainen:\*GFPR

Lisa Phifer:We will need to examine each purpose and make recommendations about registration necessary and collection of and/or access to that data for that purpose

Stephanie Perrin:the GDPR says that public and academic research is a reasonable purpose for disclosure.....

Tapani Tarvainen:\*GDPR

Kris Seeburn:@tapani very true

Stephanie Perrin:also statistics gathering

Kris Seeburn:suggest we put a clear note on that one. And revisit and ensure the wordings and ensure it meets the legal implications

Maxim Alzoba (FAITID):I think we might re-visit some of the PDP agreements after what we see in Jun-Jul 2018 after GDPR is enforced

Stephanie Perrin:Here is my point....If the purpose of

collection can be successfully broadened to include all kinds of secondary processing, (eg law enforcement investigations, academic research, consumer protection with respect to business practices not related to the DNS, then the purpose (while contestable in court, of course) could be used to justify further collection of data and release of the same.

Stephanie Perrin:My problem, I am afraid, is as I have suggested on several previous occasions....I want to footnote practically every one of these working group agreements with the caveats.

Lisa Phifer:Again -- Proposed WG Agreement: The following purposes for processing registration data satisfy at least one of these criteria: Technical Issue Resolution; Academic or Public Interest Research; Domain Name Management; Individual Internet Use; Domain Name Certification; Domain Name Purchase/Sale; ICANN Contractual Enforcement; Regulatory Enforcement; Legal Actions; Criminal Activity/DNS Abuse - Investigation; 12) Criminal Activity/DNS Abuse - Notification; 13) Criminal Activity/DNS Abuse - Reputation (where "these criteria" refers to those listed in the other proposed WG agreement)

Lisa Phifer:We could underline "processing" to make it more obvious these are not purposes for collection but for processing

Marika Konings:@Stephanie - as part of the next conversation on data elements, the WG would confirm which data elements are collected and/or made available for access. How could that be broadened if there is agreement that purpose for access is limited to the data elements that are collected for purposes for collection?

Kris Seeburn:it works for me lisa...

Benny Samuelson / Nordreg AB:It must be clearly lined out that its for processing and not for collecting

Tapani Tarvainen:So these are criteria/justification for processing \_excluding\_ collection (despite GDPR definition)

Kris Seeburn:@chuck yes let'smove on it...i think we poll it and then close the issue

Marika Konings:@Tapani - during the last call, some suggested that only meeting the criteria of 'inherent to the functionality of the DNS' would qualify a purpose for collection (for example, technical issue resolution and domain name management)

Tapani Tarvainen:Ack. I meant these criteria are not \_sufficient\_ to justify collection.

Marika Konings:so one question for the WG could be, are there any other purposes that would meet this criteria of "inherent to the functionality of the DNS"

Lisa Phifer:@Tapani, can you explain what criter ARE sufficient to justify collection?

Lisa Phifer:criteria

Farell Folly:Chuck, following Stephanie I dont completely agree that the rds pdp wg has nothing to do with gdp compliance models suggested by ICANN. My concern is that our wg propose possible requirements and elements of next gen rds...However the gdpr is making difference among the 3 models based on that. How can people compare model without knowing what is in the new \*thin elements\*? I mean we provide inputs to something, thus we should think about how it will be used.

Maxim Alzoba (FAITID):in those 3 momdels, for example Registry Registrant ID most probabl was mistakenly seen as a kind of passport ...

Tapani Tarvainen:@Lisa that's a tall order to reply in detail but I might agree with what Marika above mentioned from previous call

Alex Deacon:@Farell - i think its important to not conflate the two (interim models and future RDS)

Farell Folly:I do agree with that

Farell Folly:Lets continue in the mailing list later.

Kris Seeburn:Let's highlight this defitiion and keep a look on it and revisit when needed

Lisa Phifer:@Tapani, so you are saying that at least one of the criteria listed makes a purpose legitimate for collection?

Tapani Tarvainen:@Lisa yes (pending more detailed definition)

Lisa Phifer:Got it

Kris Seeburn:fine by me

Maxim Alzoba (FAITID):what is the poll URL

Maxim Alzoba (FAITID):?

Kris Seeburn:lisa will send i to us maxim

Maxim Alzoba (FAITID):thanks

avri doria:middle of the night does not conflict with other meetings.

Tomslin Samme-Nlar:yes

Lisa Phifer:@Maxim, you'll get email with the poll link but you can also always find the current poll link by visiting

[https://urldefense.proofpoint.com/v2/url?u=http-3A\\_tinyurl.com\\_ng-2Drds&d=DwIFaQ&c=FmY1u3PJp6wrcrwl13mSVzgfkbPSS6sJms7xc14I5cM&r=8\\_WhWIPqsLT6TmF1Zmyci866vcPSFO4VShFqESGe\\_5iHWG1BLwwehFBfjrsjWv9&m=hPgVSf86XDU9cwvWhM7rZXDp\\_g\\_x\\_SvPvQYbX8BQL7v4&s=SRQCPi9Dc3hMNZrr2np\\_j4btLnPoc1H1HRcr2wDtx6Zk&e=](https://urldefense.proofpoint.com/v2/url?u=http-3A_tinyurl.com_ng-2Drds&d=DwIFaQ&c=FmY1u3PJp6wrcrwl13mSVzgfkbPSS6sJms7xc14I5cM&r=8_WhWIPqsLT6TmF1Zmyci866vcPSFO4VShFqESGe_5iHWG1BLwwehFBfjrsjWv9&m=hPgVSf86XDU9cwvWhM7rZXDp_g_x_SvPvQYbX8BQL7v4&s=SRQCPi9Dc3hMNZrr2np_j4btLnPoc1H1HRcr2wDtx6Zk&e=)

Stephanie Perrin:I am very opposed to 2,8, 9, 10, 11, 12 as purposes for collection

Maxim Alzoba (FAITID):this time is better then 03 UTC, but worse than usual time

Lisa Phifer:@Stephanie would you be able to respond to the poll



question with respect to processing, leaving collection or not to the next step?

Lisa Phifer:@Tapani, so you are saying that at least one of the criteria listed makes a purpose legitimate for collection?Tapani

Tarvainen: @Lisa yes (pending more detailed definition)

Kris Seeburn:suggest lisa have a box for other suggestions

Maxim Alzoba (FAITID):+1 Kris

Stephanie Perrin:Yes but I was responding to "Lisa Phifer: @Tapani, so you are saying that at least one of the criteria listed makes a purpose legitimate for collection?".

David Cake 2:it's worse for the East coast of Australia, such as Holly. But normal meetings are a big challenge for me currently (was much easier an hour earlier)

Stephanie Perrin:I dont think that conclusion works at all....

Tapani Tarvainen:Agree with Stephanie: I indeed meant that some of those criteria would be justification for collection, not that any one of them would be

Stephanie Perrin:eg criterion e

Stephanie Perrin:Great, thanks for that clarification Tapani.

Maxim Alzoba (FAITID):+1 Stephanie

Maxim Alzoba (FAITID):bye all

Kris Seeburn:@LISA in the poll please have a box for other comments

Lisa Phifer:@Kris, yes, we will

Tomslin Samme-Nlar:see you all

Kris Seeburn:h

Kris Seeburn:thanks all bye