
ALAN GREENBERG: Welcome to day three of the RDS-WHOIS2 Review Team Meeting in Brussels on the 18th of April. If we could do a roll call to start with, please.

ERIKA MANN: Erika Mann.

CHRIS DISSPAIN: Chris Disspain.

ALAN GREENBERG: Alan Greenberg.

LISA PHIFER: Lisa Phifer, ICANN Org.

SUSAN KAWAGUCHI: Susan Kawaguchi.

LILI SUN: Lilil Sun.

DMITRY BELYAVSKY: Dmitry Belyavsky.

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

CATHRIN BAUER-BULST: Cathrin Bauer-Bulst.

JEAN BAPTISTE DEROULEZ: Jean-Baptiste Deroulez, ICANN Org.

ALICE JANSEN: Alice Jansen, ICANN Org.

PASCAL CROWE: Pascal Crowe, observer.

SARA CAPLIS: Sara Caplis, ICANN org.

ALAN GREENBERG: Thank you, and I note Stephanie Perrin is on her way here, I presume, but has not reached us yet and she will be joining us shortly. Again, I will not ask for statements, changes for statements of interest, you haven't had enough time to change anything. I fully expect if someone has changed their job overnight, they'll let us know. The first item is a day two debrief and day three objectives, and do we have summaries of what we did yesterday?

Sorry, as usual, let's go back and look at the schedule for a moment. Today is a relatively light day on specific subject matter because we've done almost all of the items already. We have three to look at today,

Law Enforcement anything new and Safeguarding Registrant Data and we will have a number of sessions to essentially do recaps and cover anything else that we believe needs to be covered in the city in this meeting and do an overall analysis to try to assess where we are in this overall review and do we have a level of comfort that we know how to get from here to the end.

If we can now go to the summary of issues from yesterday. We have an item on the agenda to review the objectives but I believe in terms of the specific issues, they're the same as we had the last couple of days and the other one is what I just summarized to do an overall recap and know where we are before we leave. On WHOIS1 Recommendations 12 to 14, IDN's, the work was done to extent it can be without an RDAP-based WHOIS system and that is where we sit right now, so we are marking that one as complete with I think we said a watching eye going forward but no recommendations coming out of it that we're aware of it. Sorry, go ahead.

UNKNOWN SPEAKER:

Maybe we should notice that the current phrasing about using new internal data in WHOIS does not I believe share registries [inaudible], just note. [AUDIO BREAK]

The current phrasing in the registry agreement and the registrar accreditation agreement does not -- in fact doesn't, I believe [inaudible] nor the registries or the registrars to use the internal RDS system because of example given commercial reasons. In fact, it means that if the registry doesn't want to implement it, it will not.

ALAN GREENBERG:

So maybe we do want, consider as we go forward, a recommendation that as the technology does become available, that we consider at some future time making it a requirement as opposed to optional. That's assuming we think it's going to happen before the next WHOIS Review Team. Just a little bit of humor perhaps or not.

Next one is recommendation 11 Common Interface. InterNIC was not overhauled, but the common interface was provided. I personally made that comment that I thought that was the right choice. I think Susan agreed and we probably should actually say that. We have one of these rare opportunities to compliment someone we should.

However, the common interface seems to have no metrics used to determine its effectiveness and those metrics and other information coming out of it could well be used for compliance actions if it was passed on and we'll probably end up making a recommendation that it be done, subject of course to whether a common Interface still exists. Susan.

SUSAN KAWAGUCHI:

The wording doesn't need to be changed but one thing I realized yesterday that I didn't note was that, it may have been in the material somewhere, that four million queries are run on this a year. To me, that could provide quite a bit of metrics, it's not like we've got even 100,000 or something running queries. I think we could get something significant out of four million queries.

ALAN GREENBERG: I don't this is the time to continue discussing that heavily but if only distributions of how many TLDs do they get queries on? What's the distribution of it? All that would be rather interesting.

The next item is WHOIS Recommendation 10 Privacy Proxy Services, we had a very significant discussion on that one. We seem to have a replication of the words however associated with the previous one. I think we can be forgiving, we're up to slide number 130. We'll pause for a moment while we find the right text. We did skip 50 of them I think but we're not talking about that.

UNKNOWN SPEAKER: Would you like me to read it while somebody put's it up on the slide?

ALAN GREENBERG: No, reading should be fine at this point.

UNKNOWN SPEAKER: Several issues identified based on findings of those Volker as an action to clarify. Two new issues identified, the length of time this recommendation took to implement and risks for PP Service abused by criminals. No recommendations at this time specific to recommendation 10 but the Review Team should track the progress of the IRT and consider recommendations related to compliance if necessary.

ALAN GREENBERG:

Thank you, and it's Alan speaking. I'll note that the comment about the length of time this has taken will likely move into a general new recommendation to reconsider the overall policy process in light of the amount of time that these kinds of things seem to be taking.

Next slide please. Consumer Trust. The definition of consumer to be addressed, must be broad and include internet users. I think internet users is the envelope as opposed to a part of it but include all internet users regardless of how the individuals, we're talking people, interact. WHOIS contributes to consumer trust, mostly indirectly, with the implication that a small number, relatively small number of users, regular users, use WHOIS but it contributes reputation services, spam filters and such. Subgroups will take feedback on board, use outputs of other subgroups to assess of impact of WHOIS recommendation implementation on consumer trust. I think we have a strong direction there, we still need to a little bit of work but we know where we're going.

I'll note, this is probably the recommendation or the area that is in most inclined to drift into non-WHOIS areas, simply because the term consumer trust is used within the ICANN environment in a whole number of different ways and certainly in the consumer issues and within countries. It's one we're going to have to keep a watching eye but I think at this point I'm feeling comfortable. Erika and Chris say we will watch like eagles.

Nest slide. Alright, the next item is a recap of the Subgroup 3 on Law Enforcement Needs. This one is assignment with the repertoire of Thomas, who is not here and Cathrin has volunteered to take over. Over to you.

CATHRIN BAUER-BULST:

Thank you very much, Alan. Indeed, I'm replacing Thomas as the repertoire on this subgroup. One of the main tasks that the bi-law set out of us is to check the fitness of the WHOIS for a number of specific user's groups, we already talked about consumer trust, another one that is at the same level is whether the WHOIS is apt to meet the needs of law enforcement?

In order to do that we decided to define the legitimate of needs of law enforcement, in particular as acquiring 50 accessible, accurate and complete data and to proceed by first of all establishing a working definition of law enforcement. Identifying an approach for us to determine the extent to which these law enforcement needs are meet by today's WHOIS policies.

Identifying the gaps in meeting current needs of law enforcements and recommending measurable steps to improve the current situation. What we did was we put together a number of questions that the subgroup wants to attempt to answer, just like the rest of us did for the other teams. In particular to verify with law enforcement what exactly particular areas, what impact particular areas had on their work, focusing on cyber crime investigations and enforcement.

On data protection laws and their enforcement. On the requirements that the registrars currently under, in particular when it comes to collecting and retaining data. Then any other requirements that law enforcement specifically has that we may not be aware beyond the accurate, complete and swiftly available data. Then also to look at gaining a better understanding of procedures and requirements that both law enforcement agencies and the registrars and registries.

If we go to the next slide. We've been looking at a comprehensive list of background materials, in particular the work that was done by the WHOIS1 Review Team, which conducted a specific survey of law enforcement at the time, to gain an understanding of how law enforcement was using the WHOIS and what issues they were encountering.

We also looked at the methodology used in the WHOIS Misuse Study Final Report, which focuses on different issues but has a very interesting approach to how they have surveyed law enforcement, so it includes a number of questions that are designed to test the familiarity of law enforcement with the WHOIS and the way they use it and the competence of law enforcement and using the system, which helps assign weight to the answers because it gives an interesting insight into the frequency of use as well. We're thinking of applying that to our own survey.

I should say that, that's the part we haven't yet even completed, so we're far behind on our work in this subgroup because we have not come to an understanding yet in the subgroup as to how to proceed because there's a preference of some members to go for a sort of

informal outreach, talking to law enforcement on an individual basis and just getting their feedback. And then other members of the subgroup have a preference for having any outreach, including any informal outreach, be structured in terms of the questions that are used, that there is comparable results that you can then digest and put into the report and hopefully proceed by means of a more formal survey because that again helps in comparing the answers.

I guess you can tell from the way I'm advocating for this one, I'm on that side of the fence. However, due to the unavailability of the rest of review team subgroup members, we haven't been able to come to a conclusion on the way forward on that. That's something that still urgently needs to be completed. The data that we have available now beyond what is listed here and also the input that was provided during the taskforce WHOIS Compilation of User Cases last summer, is mainly from the Europeans here and hence not representative. We really still need to get more representative view on whether WHOIS as it exists now or just before it disappears in its current form, whether it meets the needs of law enforcement authorities.

If we go to the next slide. This basically just outlines out approach to the findings, to how we will come to the findings and that matches what was already on the first slide, so I won't go through it again. I think it's pretty safe to say that the preliminary review of the materials that are already available has shown that the accuracy continues to be a major issues as well the availability of WHOIS data but mostly from specific registries and registrars or in the ccTLD world, which of course is not the focus of this review team, there we are still pretty much on the same

kind of track as we were when the first review team report was adopted.

I think that makes sense, in particular when we look at how implementation has gone on the recommendations from the first review team, in particular when it comes to the accuracy work and the privacy proxy work, which has an immense impact on law enforcement. There we don't expect to find many changes from before but then the main question will, how relevant this is still today?

As well know that's taking a snapshot of the situation now might be very informative for major researchers looking back at this but does not necessarily tell us much about where things are headed and what would be appropriate recommendations to make going forward given that law enforcement will probably be among those most impacted by the changes to the WHOIS, both because of their own use of the WHOIS and because of their reliance on factors such as domain tools, to provide them with complete overview of where are things are who owned which side at what point in time and what other sites those people own, which might become very difficult with a new situation.

I think if we do the survey in the next couple weeks and then come to result that not much has changed for law enforcement from 2012, then the question will still, what we do with these results and where we take in terms of recommendations. This is probably one of the topics that will be most affected by this other than anything new of course. That's where we stand at the moment. I'm hoping to be able to dedicate some more time to this in the weeks to come to have a proper subgroup

report and I apologize for the delay on the subgroup. Thank you very much.

ALAN GREENBERG:

Thank you, Cathrin. Do we have any comments? Susan, please go ahead.

SUSAN KAWAGUCHI:

First of all, don't apologize because I think everybody knows how busy you are and the rest of law enforcement. I think your comment about if we do a survey now and get input on how the current status of WHOIS impacts law enforcement that will change radically after May 25th or maybe sooner who knows.

I was wondering if it was worth thinking about -- cause I think there's a value in finding out if anything has changed for law enforcement and improved in the last six years, if there's been more access or less access because if the review team can say, "WHOIS1 identified this and in six years nothing changed, in fact A it got worse or maybe, thank you very much, actually things did improve but not enough."

I think that's a valuable assessment. If there's a way we could work on that and then also I think we have to the assessment after the impact of the GDPR enforcement realized. A lot of your work probably couldn't have been done until after the fact and after May anyway.

I was also wondering if this is something that knowing very little about law enforcement, if this could become more of an initiative for the whole review team to help with and not to just leave the rest of the

work, I mean know that we're all going to come together on all of these anyway but if personally if there's any way I can help in carrying out what those surveys would look like and the questions to ask and how we go about those strategy of that, I'd be personally happy to do that. But I think we need to do it before and after.

ALAN GREENBERG:

Thank you. A couple of things. I thought half way through your talking you were going to suggest it's not worth doing a survey right now but that's not the way you ended and I strongly agree. At this point, as we understand what might happen due to GDPR, it's only going to get worse or more difficult. We're not likely to have easier access or more access to more information than is available today.

Given that, I think it's important to set a baseline so we have something to compare it to going forward. Whenever the dust settles and it's not clear there won't be several dust settlings over the next year as we have interim and temporary and whatever's, it's always going to take some amount of time for them, law enforcement in general to understand what the impact is. To start with it's going to be the sky is falling and maybe other methodologies will be found or whatever.

Clearly, just delaying another few months in the scope of our study isn't going to cut it, I think we have to go ahead with this. It may be harder getting people's attention because their focus is on the future and not a recap but if not necessarily in this GDPR exercise but going forward, we can put together the case of why more access is necessary and may result out of the current first pass, that's going to help the case. I think

we have an argument for why we want to do it and why we hope people will participate.

I agree with you, we really have to hit different parts of the world and make sure we have at least a wide range of input if not thoroughly covering everything. In terms of how to do the work, I find that rather problematic and I'm going to put someone on the spot right now Lili and I know you've put a huge amount so far into the projects you have had. Probably much more than I would have if they had been assigned to me, for that I thank you.

I guess I'll ask and the leadership did discuss this ahead of time, I'm not springing anything on Cathrin and Susan, is there any way we can offload one of the other projects to you and get you a little bit more involved in law enforcement because clearly you have personal interest and personal knowledge and perhaps more important, you have contacts? Having you involved in some aspect of this I think will add a significant resource into it and if that means one of us or someone else in the room has to take over one of your other projects and become the repertoire and you just one of the workers on it, then I think that maybe a good tradeoff. You can answer now if you wish but I'm not demanding an answer but we should think about it if nothing else.

LILI SUN:

First of all, thank you Cathrin for the very good summary. Actually Thomas reached out to me earlier in March, he had to check with me whether I could be included in this subgroup as well but at that time I confirmed with Thomas, I can support this subgroup. I know the

workload for the data accuracy, I couldn't like spend more time on this subgroup, to support this subgroup. Later on I also received a message from Cathrin about how to leverage the info resources to support the informal survey.

I reached out to the colleagues within in direct reach and they also got confirmation from almost all of them, they can provide their opinions or views on this informal survey in a personal capacity. That's what I have. I'm also willing to support. Before this face to face meeting, I also have the intention, maybe more or less, I could finalize all the findings, all the data accuracy subgroup, if it's more or less finalized so I can maybe focus more on the law enforcement agency's needs, this subgroup work as well.

ALAN GREENBERG:

Feeling that the recommendation parts of that really go into the compliance group, supports that. I guess simple answer to your comment is, I'm really glad you're here and I really appreciate how much you're willing to put into this, so thank you. Cathrin, please.

CATHRIN BAUER-BULST:

Thank you very much. Just wanted to react briefly to Susan and Alan, first of all to say thank you very much for offering to help, that's very kind, I also know how busy you are, it's really appreciated. I think on the surveys, in terms of the comparability of what the situation 2012 and now, I'm a bit hesitant in terms of really drawing conclusions because the 2012 survey was not answered by that many people and

there's not really anything that we could statistically in a reliable manner compare.

Also, I would probably want to change the questions and once you start changing the questions, at least according the purest, I do my barometer surveys with, you're not allowed to compare anymore. I think the more important part of our survey now and that's what Alan spoke to, could be to serve as a baseline to compare to after May 25th, if we run it now in the next couple weeks. We could design the questions to make sure we capture how does it work now and already with a view to checking also those that we expect might change.

How long does it take you to make query? How easy do you find it access the system on a scale of 1 to 10 or whatever? I would be very grateful if you wanted to review and provide input on the questions. I send around a first round of questions to the others on the subgroups, I can share this with a wider review team and before I do that I would review them with the specific view to this idea of having it serve as a baseline for a later comparison, so I guess we would then run two surveys.

I'm fairly optimistic that we could get more feedback now, mostly because of the existence of the public safety working group and the very active participation of Interpol because with that global reach and also using Alice who is now specifically responsible for outreach and capacity building with countries outside the normal group of countries that send participants to ICANN meetings, we can probably get more representative sample and then that could also be a powerful tool for

showing how it has impacted once the form hits us. So, thanks very much for also your patients with this subgroup.

LISA PHIFER:

Cathrin, I don't know if you had an opportunity to see some slides I sent you last night? I wanted to extend the offer and if now is not the time to do this we could certainly do it on a call after this meeting but I went and pulled some slides from the WHOIS Misuse Survey, actually a webinar that they produced, it was Carnegie University that conducted the survey. Brought some slides to give you some insight into how they structured their survey and created their samples that they were going to survey and some of the challenges they ran into in doing that. Whenever you find it useful to share that information it's available.

CATHRIN BAUER-BULST:

Thank you, Lisa. I saw your email yesterday and I've also reviewed the questionnaire and the responses that they got. I mean obviously it's a different focus but I found the methodology really interesting. I think it's something that can work. I'm a bit concerned about the amount of extra answers and questions because there's a tendency if you need to provide text to answers for people to just drop off the survey.

It starts out with, explain what this is, explain what that is. It basically tests people's competence by putting open questions to them, which I think is great for really checking the competence but you might lose something like 50% of people because then they just get fed up and they don't have time, especially law enforcement from what I know. But, I do think it really makes for a very reliable survey, I'd be glad to

have an opportunity, we can find some time later in the day to talk about it or on a call.

SUSAN KAWAGUCHI:

This is really more addressed to Lili, since we identified a bunch of questions we need to go back to compliance and get more, so I can do the ground work on that, to relieve the pressure on you to do that. But, I still need your analysis and evaluation of the data once we get the responses. If that would be helpful for me to just take that chunk on so that you could focus more on law enforcement, I'm more than willing to do that.

Whatever part you want to stay engaged in, except that at the end of the day I think your analysis -- I mean we read some of the same reports and you definitely focused on different points than I did, so I think that's very beneficially to the work. But if I can get all the data that we've discovered that we don't have to you and that way you're not spending as much time on that and maybe that would relieve some of the pressure for you.

LILI SUN:

Thank you, Susan. Actually, yesterday I stayed in the room of the hotel, I did some research on the compliance report, teams report. Especially for the audit report. Maybe today later we can come back to the data accuracy topic and Alice already proposed a list of questions for compliance. Actually, to my understanding, some of the questions has been solved at the moment. Maybe we can go back to the question list today later.

ALAN GREENBERG: Further comments? Then we are over, thank you. We are half an hour early but we might as well go on to the next item, assuming Stephanie is ready on Anything New. If you could turn your microphone on if that was something we were supposed to hear.

STEPHANIE PERRIN: Hopefully my voice will hang on while we go through these slides. I'm just trying pull up the slides as we speak. Sorry, I'm having trouble locating and opening the file.

ALAN GREENBERG: Is this a different file then the one we already have on the report?

STEPHANIE PERRIN: That sound be it. Oh, for God sake. I'm running into Office Mac problems. I'm going to have to go through my mail to find it.

ALAN GREENBERG: Can you look at the screen? Is that what you're looking for perhaps?

STEPHANIE PERRIN: That's what I'm looking for yeah but not so easy to watch from the screen.

ALAN GREENBERG:

I'm sure we can send you a copy quickly.

STEPHANIE PERRIN:

That might be helpful. There we are, that looks like it. Okay, I think I got it. That looks like the right one. Okay. Basically, we have a small group on the Anything New Team. Susan has been doing a ton of work, I can't say I've been doing that much but I did pull these slides together from the one meeting that we had. The caveat of course on Anything New is extra important with respect to the GDPR, at least in my view.

If we move on to the next slide, these are the standard approaches to the topic on slide one. Susan did an excellent job going through the inventory of new issues that had arisen that staff had pulled together for us. We went on to have a look at these particular activities and decide what needs to be proposed.

Next slide. One of the items was the new WHOIS pages, we discussed that thoroughly yesterday. I'm not sure whether we actually did discuss what challenges to staff have encountered in pulling together those pages yesterday but it's a question worth asking I think. There's no need for us to look at it because that belongs in the other group. On the Inter Register Transfer Policy, the question arises whether this will work with privacy proxy services? Have they been implemented properly? We need to check on whether the registrars are satisfied and whether the results of the IR on PPSAI are satisfactory. Of course, we know that's pending, we have a separate group looking at the PPSAI, that's just a note to check on the cross links.

In terms of the additional WHOIS Information Policy, Susan raised the issue of whether this is a compliance issue? Do we need to check the compliance? We do need to check on whether the registrars are satisfied with this, whether it's actually working and whether they're implementing. Again, a question for compliance. The new gTLD URS Policy Procedure and Rules for the URS Policy, that's been discussed in the RPM, so there are no specific WHOIS issues here that we know of. Again, a cross reference might be useful.

The Expired Registration Policy, it's not clear how the fees are being announced when the registrar has no website and we have no metrics on this policy, that's true for plenty of other policies. The whole issue of whether a registrar has to have a website or not seems to me a really big transparency issues, it's also a rights issue from the perspective of the end user and I would have thought it would have been covered under the registrars accreditation agreement but I guess isn't, they don't have too.

SUSAN KAWAGUCHI:

I did go back after our discussion and pulled up the RAA and it does say that they may have a website but it does point out that they absolutely have to have a webpage for WHOIS and then the Port 43 access. For WHOIS, they have to provide access, ability to query at the moment but if it appears they way they implement this, if one entity owns multiple registrars, is they just will point that registrar to the main registrar and all of that is provided.

On the transparency issue, if they're not offering registration services online, then they do not have to have all this information, it just has to reside in the domain registration agreement. That said, how would you register a domain name unless you go back to the old days of NSI and facts, where you faxed in, filled out a request application and agreed and faxed it in.

STEPHANIE PERRIN:

I remember looking into this in the RAA from the perspective of registrant rights, like how do I know what's happening to my data if I registered something six years ago. My reading of the wording there was they can tell the individual what they have to from the RAA any old way they please, so it could be in an email that says, thanks for your registration, blah, blah, there could be a link in there but who's got that six years later when they actually want to investigate what's happening or what they're paying, the arbitrary fee increase or whatever. That does seem to be not quite good enough today but we're not here to fix the RAA I guess.

ALAN GREENBERG:

Okay, are we finished with the list?

STEPHANIE PERRIN:

There's more. Next slide please. Going on with the Thick WHOIS, check section 7.1 for Thick WHOIS Policy, it's stalled due to GDPR and RDAP implementation. I think we're all aware of the struggle that's going on there. The Transition Policy for .COM, .NET and .JOBS of course being

the main issue. The Registry Registration Data Directory Services Consistent Labeling and Display Policy, we didn't see any implications, they maybe, I don't know.

Susan, you don't think there are any there. Privacy and Proxy Services Accreditation, Subgroup 10 is covering that. The Transliteration and Translation of Contact Information PDP and Final Report from the Expert Work Group on Internationalized Registration Data, we not that the work is completed and we should note that in our report. We need to verify what issues have arisen because as we discussed the other day, it's not necessarily a rolled out.

On to my very favorite topic which is at the top of the next page. The Review of ICANN Procedure for Handling the WHOIS Conflicts with Privacy Law. The new IAG was, I shouldn't say created, it's probably just been voted through by the GNSO. The new trigger was recommended, although and we went back and forth at the GNSO for a couple of meetings here with the registrars saying it doesn't work but voting it through anyway, which I'm still scratching my head over that.

The agreement that the GNSO came to was that we would vote it through and strike a new committee that had a broader remit than the last IAG. The last IAG had a narrow agreement to see if there was another trigger that would make up for the fact that the current trigger was actually not all useful.

That committee is sitting there pending, I believe we will be dealing with it at the next council meeting next week because there's only so many meetings we can defer an action. They may be issuing a call for

volunteers or striking the scoping document, the charter. I would say multiparty dissatisfaction with this, with the results of this is an understatement but the registrars are of the view and Keith Drasick in particular, he's the one who put as a registry, put the motion in, they feel they need it just in case. One of the other issues that we were talking about is the Final Report on the Implementation Advisory Group and I think I've just described that.

Now, the next item is the Data Retention Specification Waiver and Discussion Document, which is separate of course. Data retention is definitely an RDS issue and a GDPR issue, they waiver been slow for uptake but it is working. We may need changes due to the GDPR and in that regard I refer to the latest document from the Article 29 Working Party. We need to check on whether the registrars are satisfied with the use of the waiver so far. I'm really sorry Volker isn't here because of course plenty of this is punting to Volker and he's been really too busy with GDPR to comment on some of these things. That's about it. Happy to answer questions.

ALAN GREENBERG:

Thank you. I have a number and I'll take a cue. Can we go back to the first slide? On IRTP, there have been more IRTP PDP's then on any other single subject and I would find it hard to believe the privacy proxy did not consider IRTP implications since -- did not, at all? They will, sorry. Why not? Cause I'm confused, I thought the PDP was finished.

STEPHANIE PERRIN:

Once the PDP was finished and they started to implement, actually the registrars were following the policy and the implementation, then they discovered that when you removed the proxy registration that would, that in the new policy would constitute a change of registrant and delay the transfer 60 days, because you have to hold it 60 days after a change of registrant. I didn't follow that very well. I was not a member and just didn't realize that was coming down the pipe.

The registrars have pushed back and said this is a big flaw and they proposed a solution -- I think it might have been India, over a year and a half ago and we agreed, at least with the registrars a contracted party house and the CSG agreed that their solution made sense and we would support the change they were requesting but it need a formal mechanism and so then that was brought to council and that has been a reevaluation and hopefully change of policy that the registrars have asked has been assigned to the PPSAI IRT but it was agreed that once the draft IRT Report was out, that the PPSAI IRT Working Group would then focus on that and the draft reports not out yet. In the meantime, I think people are just violating the existing policy and making a sensible -
-

STEPHANIE PERRIN:

You couldn't possibly follow the existing policy because you'd be in violation of your customer agreement, as soon as it sits there for 60 days it's venerable to everybody scrapping it up, the true identity.

ALAN GREENBERG:

Bottom line is, it's subject to current policy development and or implementation, falls directly in the line of, this is ongoing work of the GNSO and implementation and is out of remit. I thought the answer much simpler but this is as good of one. Thank you for the explanation, I wasn't aware of any of that.

Next one is URS. For all intents and purposes, the WHOIS implications of URS are pretty much the same as the WHOIS implications of the URDP and again, that is something that is working. GDPR will obviously affect it and it will have to keep on working one way or another or we scrape the policy but that's out of our remit also. I don't think we need to worry about that one at all. ERRP and this is one I have more than enough personal knowledge and scars, why is that a WHOIS related issue? Anyone?

SUSAN KAWAGUCHI:

The only WHOIS related issue really there is the fact that they -- the question I had when I read the policy, is they don't have to have a website, so that lead me to think that they didn't need to provide a WHOIS Lookup, which is a WHOIS obviously issue. Probably the policy, let me get to my notes here. The policy isn't a problem, it's the fact that I realized that you don't have to have to have a website but you do have to have a WHOIS Lookup and in our call, I didn't understand the answer to my own questions.

ALAN GREENBERG:

So, it's not an ERRP issues, it's looking at ERRP triggered a question unrelated to ERRP. Certainly, the words there are saying, there's no

clear way to know how the fees are announced and announcing fees is a part of ERRP but that's WHOIS related.

STEPHANIE PERRIN:

I think, I don't want to misread Susan's point but if the only way you can track down this data is via the WHOIS because they don't have full transparency and it's part of the RAA, which sets your registrant data requirements, in my mind you don't get far in discussing WHOIS without looking at the RAA and the registrant data requirements. There is a link there. I know you want to throw everything in the, not our problem and I'm certainly endorsing that but this one I think is kind of something that requires investigation.

ALAN GREENBERG:

I did spend three years of my life on this one, so I have a little knowledge on it and I don't believe there's any WHOIS related part in that. The requirements for a website, there are some registrars who don't have websites, we cannot force a business model on someone but virtually all registrars who do not have a registration website, everyone has a website, do not have a registration website are the registrars who work purely through resellers and specifically things like fees --

STEPHANIE PERRIN:

That's everybody though.

ALAN GREENBERG:

No, there are some registrars who do not market directly themselves.

STEPHANIE PERRIN: But resellers are -- I got a huge problem with the lack of transparency about resellers.

ALAN GREENBERG: We all have a large problem with resellers but the point I'm making is things like fees vary by reseller, they're not consistent over the registrar and therefore the information cannot be present in a single place on the registrars site. Virtually every registrar, every reseller has a website and the obligation now, not before, is passed down through the registrar to the resellers. I don't see any WHOIS implications in this policy.

STEPHANIE PERRIN: Just a question, does compliance ever check on whether resellers actually inherit the obligations of the registrar?

ALAN GREENBERG: ICANN took the position for years that and I quote "We have no contract with resellers, therefore we cannot do anything related to auditing them." They have no I believe accepted the concept that all though they do not know who all the resellers are, cause registrars are not obliged to inform ICANN of who -- moreover, resellers are nested potentially many times but ICANN does have an obligation if someone reports it or if they notice, that a reseller is not doing something properly, to go up the food chain and take it up with their registrar.

To the extent that we can take action, I am told they are, I have not verified this myself. It was a very significant issue both in this PDP and in others that the registrars at the time of this PDP were claiming that they have no obligation to pass on responsibilities. Now, in the business world that's a really nice line, cause it says, "I can remove any obligation I have under any contract or any law by subcontract."

Clearly in the rest of the world, that doesn't work. Under the current RAA, it doesn't all work either, we still have the 2009 RAA to worry about but hopefully that one disappears soon. That was a very significant part of the discussion in the PDP but it's not a WHOIS directly related issues, it's a reseller issue.

STEPHANIE PERRIN:

I'm going to defer to your experience on that group Alan but I would have to say that when ICANN wakes up and realizes it's a data controller, they are going to have to beef up their contracts to make it absolutely crystal clear, which it isn't I argue, on the RAA's that I've looked at. Those obligations have to be passed on to any subcontractors because I don't think that the individuals are being adequately protected under all kinds across a range of consumer protection and I don't understand why this doesn't come up, this is a sideways rant here, under the consumer protection...

ALAN GREENBERG:

There's no questions that resellers an issue and it's going to come up under the GDPR it's not only ERRP issue. We have Erika.

ERIKA MANN:

The last comment from Stephanie triggers some thinking, we might want to maybe make an recommendation, maybe not with regard to anything new but pick this up this point that this topic needs to be reevaluated in the light of various legislation around the globe, blah, blah. How third party contractual obligations ICANN need to review and then this would include the potential problematic with regard to resellers. I would say potential because it would include all third party related potential obligations, so we might want to do it and I take your point with regard consumers as well, at least to reevaluate the case if there is something needed to be mentioned. Thank you.

ALAN GREENBERG:

I think that's a fine idea. Just to be clear, we have lots of dissatisfaction on resellers in many ways but we have to identify them as such. Was there someone else who wanted to speak here? Cathrin, please.

CATHRIN BAUER-BULST:

Just a minor point, I fully agree with Stephanie that the obligations on the resellers are not clear but in addition to that of course there will be different obligations once GDPR comes into place because of course the RAA already does not reflect to the extent necessary what the duties are of the registrars in terms of informing their users of the data processing and the purposes and everything else, which would then indeed need to be passed on to the resellers as well, as they would be the ones in contact with the customer.

My only question here is that this brings us very close to just GDPR implementation and what's needs to change on that and then we need to determine as a review team, how far we want to go into that because of course that's just one of about 100 things that will need change. Do we make specific recommendations on this or do we say, "Okay, there's ton things that will need to change with the GDPR and we're listing a few examples." Which might be one approach. Just food for thought.

STEPHANIE PERRIN:

I think that's a really important point and one we grapple with all the way through anything new because anything new usually will have to change because of GDPR depending on the outcome. In this particular one, to me, it's not just, we're not GDPR compliant across a few areas, this is a huge vacuum, we should have addressed the reseller thing ages ago because it hasn't been clear how the obligations are passed on, it's a vast part of the market.

Come on, it's like a get out of jail free card, you can't even -- I have to say, I didn't realize how bad the problem was until I was on the RDS Review Team and somebody said, "You need WHOIS to find out who your registrar is."

Well, then I tried find out who my registrar was, the registrar record, yeah that was quite a little dance through WHOIS, I never did because of the whole reseller chain after chain after chain and heaven help the poor kid who's starting a website somewhere and buying through a web developer, there's nothing there about domains on the web development site, I had a little scan. I'm sure it's even worse in some

countries. I think this is a hole that demands some kind of comment from us saying -- across a range of factors and we can list them, we need to do something.

ALAN GREENBERG:

We have a speaker cue. We're you finished Cathrin? Lili.

LILI SUN:

Just to respond to Stephanie's query, our compliance team checking the reseller agreement. I found some clue in the -- yes, the compliance team did check with the reseller agreement and in one of the audit reports in September 2016 -- I just got here for example, if a registrar reseller agreement was found to have insufficient language during the audit phase and the registrar agreed to update their reseller agreement to be in compliance with the RAA, this would be considered as a deficiency. They did check the reseller agreement.

ALAN GREENBERG:

They check them if there's a complaint or if there's a reason for looking at it, there are not a party to those agreements and they don't even know the agreement exist until there some reason for looking at. I believe the 2013 RAA does make a requirement to pass on all obligations to resellers. At the time ERRP was implemented, that was not the case and so if you look at ERRP, you'll in all of the cases where an obligation is put on a registrar, such as putting something on your website, it explicitly says, "And your resellers must do it too." But that made more general in the 2013 RAA.

STEPHANIE PERRIN: It would be good to audit systematically and check them all. There must be a gazillion but...

ALAN GREENBERG: That's the problem, you can't. There are no records that we have access to. Registrars are not required to tell us who their resellers are and their resellers are not required to tell us who their resellers are and it's nesting perhaps multiple times.

STEPHANIE PERRIN: Under GDPR at least in Europe, that's going to change drastically because and I can't remember the precise articles that spell it out but it's data processing, you have to make transparent your arrangements.

ALAN GREENBERG: Many of us will celebrate if that's the causeway, it has to change.

STEPHANIE PERRIN: You're going to love GDPR Alan, you just don't know enough about it, you'll love it.

ALAN GREENBERG: Alright, we're going to run out of time but we have a nested number of comments. I think we have Cathrin at this point and Dmitry and then

we'll get back to my list, which I haven't gone through and Lisa, sorry. I think Lisa was first, why don't we let.

LISA PHIFER:

My comment will be quick and it's just that if you do make a general recommendation around this subject, it probably would be appropriate to tie that to the WHOIS is aspects of passing on the contractual obligations, even though I realize it has much broader implication, stay within the remit of this review.

CATHRIN BAUER-BULST:

I was just going to say that there is an interested from both sides of the chain in passing on this obligation obviously because just as the users are interested in knowing who their data processors are and what the obligations are that those are under, we are also interested as WHOIS users in getting accurate information in WHOIS and of course, that only works if the obligation to provide information is actually also transferred down to the registrant.

That's something that we have also been working with the Numbers Community because you have the same situation for the Regional Internet Registries and this is just an anecdote but there you have the five Regional Internet Registries who assign blocks of IP addresses to resellers in the same way that we do in registrar situations and there we've agreed with them that they need to have wording that the resellers, where there's also often a chain of resellers, have to pass along the chain and have to include in their contracts with the following subcontractor or reseller and finally with the customer and the

obligation of the RAR or top reseller at the moment of passing it on this obligation changes from making sure the WHOIS information is included, to making sure that the following contractor respects this policy and makes sure it's implemented.

how

DMITRY BELYAVSKY:

I just want to mention that sometimes there is such a practice when a reseller's information is provided via billing contact and it's reasonable because the registrant usually has to pay to reseller to ensure that money will come to renew his domain. Maybe it makes sense to write it as a formal -- to suggest it as a formal obligation on this or that stage, regulation of process. Thank you.

ALAN GREENBERG:

I'm sorry, I'm not sure what you are asking to be formalized. We currently, yes web developers for instance, web hosters often will register something in their own name and at this point that is completely legal. They're either doing it as a privacy proxy server or simply offering a service and therefore of course, taking responsibility for what happens on that domain name. I'm not quite sure what the recommendation is you're asking for.

DMITRY BELYAVSKY:

I suggest to recommend to specify the end reseller as a billing contact.

ALAN GREENBERG: But that end reseller would be the billing contact if they are ones who registered the name.

SUSAN KAWAGUCHI: Are you recommending that the billing contact with then just be shown in the WHOIS record so that someone could figure out, five years later, who they actually did business with and who's renewing their domain name? So, it's a WHOIS issue.

ALAN GREENBERG: I guess we have as much control over that as we have who I put as my billing contact. I provide a billing contact to my registrar and they have my credit card, that doesn't show up in WHOIS, what's in WHOIS may be completely different information but again, I'm not quite sure....

SUSAN KAWAGUCHI: I think your point here is an interesting one because from a consumer rights perspective, it would be hard to unravel if you lost your domain name because your website developer went bankrupt or decided to retire to Tahiti. You'd be just SOL and there would be your business and because we don't pass on or at least audit the passing on of the obligations, you would lose your domain, right?

Or you might, you could. It seems important to have that data and on the flip side from the law enforcement side, how do they find out who the web developer, who's the actual functional user of a website that might be problematic? It's not the website people, it's the end user.

Where is that data recorder so they can get it? It's not going to show up in a tiered access because there's no obligation at all to register, right?

ALAN GREENBERG:

When a webhoster of whatever essentially claims to own the website, own the domain name, then they acquire the rights to that domain name and the obligations associated with it. They're the ones to go to jail so to speak. If they claim that they're the one in control, then accept the responsibilities going with that.

That's horrible business practices and I think Susan already said she's dealt with hundreds or thousands of people who found themselves, well many -- I've certainly have done with dozens and it's a horrible practice but people who are not knowledgeable want a website and that ends up happening. I'm not sure how we can stop that, that's a business practice, at the far end of the chain.

DMITRY BELYAVSKY:

Let me clarify. In real life, the end user can register a domain and buy hosting separately. Real life users often forget where they should to go when it's time to renew the domain. If this information is available in WHOIS, it will solve this problem. If enforcing or providing the end -- the party whom the registrant has paid to in WHOIS, it will provide an obligation through the whole chain from the registrar to registrant.

ALAN GREENBERG:

I think we're getting into an area completely unrelated to anything here, saying, "We believe, that because of the reseller chain, we should

impose new rules associated with domains registered through resellers. That there should be a bread crumb trail, an audit trail. We should be able to know the reseller chain; a user should be able to find this out easily." I think that's where we are and that sounds like a subject off from any of these and perhaps a new valid area we want to consider.

STEPHANIE PERRIN:

I see your position. I think very often we don't have a strong enough lens when we look at where the WHOIS review. There should be a huge lens there of the end user, the registrant, the beneficial user of the domain name and how are we actually looking at our policies, procedures, structures, etcetera from the perspective of that end user? This is a useful contribution from that perspective.

Now, whether how we frame this, because ultimately it whines up being a recommendation to the next RAA, but I don't see how that is egregiously out our scope. If we see a hole, we should at least ask the questions. In our study of blah, blah, we can frame this as a WHOIS, as Lisa suggested a minute ago and here are the questions that arise. We could even suggest what working group ought to be looking at them. The problem, it seems to me, it's a very central one that I go on about all the time, that the end user rights aren't a big enough focus in these PDP's, so they get dropped off the table. Thanks.

ALAN GREENBERG:

Forgive me, I've spent the last 12 years of my life on end user right in ICANN, we don't always forget them. What we're identifying is a real issue, it could be fixed in a RAA negotiation change, it could be fixed

with a PDP. I'm hearing everyone in violent agreement with each, so let's put it as an item to discuss as a separate item, right now we're looking at past thing. We have Lisa and then Erika.

ERIKA MANN:

Just another good reason in doing that in paying attention to the end user and the business because currently I think there's not enough attention or not enough understanding about how domain work and what kind of legal stability it gives to the end users. There is a connection and I think it's good to point it. It sometimes difficult to find a connection to the WHOIS but I agree we can do it in a way that it's still fits into our work. Alan, don't look so frustrated.

ALAN GREENBERG:

Will the real Lisa now make her comment. I called on Lisa and you spoke.

LISA PHIFER:

The point that I wanted to raise is actually that I think we have a place in our agreed upon review objectives in order to address and that is in the consumer trust assessment regardless of how you define consumer. Certainly, examining what registrants and other end users find lacking in WHOIS and in fact resell. The ability to transparently see the reseller train is one of those. The remit of our review team would be to examine the use of that information, identify this as a gap and then recommend that it be addressed either through policy development or

contractual changes. Actually, recommending what that policy is, strays a little beyond what our review team normally does.

ALAN GREENBERG:

I'll point out, the review team can do it what it wants, they don't have to listen to us. Susan.

SUSAN KAWAGUCHI:

Bizarrely, in looking at this now, the common interface was a step in the direction of addressing this issue. In listening to all the discussion, it's obvious that we didn't go far enough because the common interface, at the very least, allowed to somebody who had a domain name, to do a Look Up, without having to track 10 entities, the reseller of this, the reseller of that, you could go and Look Up your WHOIS and go, if you understood the system well enough you could say, "This is the registrar, that's who I really need to go to."

Way back in the EWG, I could have looked that up for you really quickly and told you who to go talk to you. What I couldn't have done, which is a big omission for the WHOIS record and Dmitry's pointing this out, is said, "This is your reseller."

I could only tell you who your registrar was and I think that this whole industry has evolved so much and domain names are part everybody's life, maybe even part of their refrigerator and washer, then we should address the fact that all of this should be -- you should be able to find that information, how that all works with GDPR, I have no idea but if these are companies, I think they should be in the record and displayed.

ALAN GREENBERG:

My recollection is at this point, certainly for many of the registrars and don't remember if it's a requirement or simply many do it, there is a field in the WHOIS which essentially identifies the reseller, perhaps cryptically but there is a field and I don't recall whether it's the 2013 RAA makes it's compulsory to put it in or just some of them do it.

Clearly, many registrars who have resellers, you can go to their site, type in the domain name, they'll tell you which reseller it is. I think it's generally picked out of a field in the WHOIS. Some of that information is there. I think we're all violently agreeing with each other, this needs to be looked at, we now have a place we can put, we don't even have to call it a new area. Any further discussion on this issue? Alright, that's enough on ERP.

Next page please. Next slide please. The Translation Transliteration, why is the not all just covered because that work was done because of the IDN recommendations in WHOIS1 and it's now being covered under the IDN rebix, so I don't think we need to look at that one at all, other than what the sub group for IDN is doing, is that correct?

STEPHANIE PERRIN:

We had it on our list. We looked at it. It's kind of done but not measured. We're not looking for more work, so yes, we could punt to that.

ALAN GREENBERG: That list, this whole list includes that are done as a result of WHOIS1 and those I think we all decided we're handling under the particular sub group for the WHOIS1.

STEPHANIE PERRIN: In my document I just didn't indicate that. I think so, that's why it's not up here.

ALAN GREENBERG: The summary here implied we have work to do under the Anything New and I was just pointing that it's not ours. Last, I try to remember what my own note is here. Let's look at the next slide maybe I'll figure it out. The contract with law, again, those are issues that are currently under discussion in the GNSO, so I don't think it falls under something that we're going to comment since it's in progress.

STEPHANIE PERRIN: WHOIS conflicts with law and the failure there to implement successfully and the failure to deal more comprehensively with the silliness of the trigger, is a key reason we're in the mess we're in right now. Over the years since WHOIS Review, that was the stated policy, we all know it's a procedure not a policy and you're admitting it's not a policy now but we still wrote to people saying, "Look at our policy, this is how we deal with data protection law." I don't think we can punt this one.

ALAN GREENBERG: May I restate my question? I'm talking about these two particular procedures that I believe are currently under GNSO review at this point. That's the way it was described, I see the word GNSO there and I'm not saying we don't have a general statement in our review about our level of frustration over how WHOIS and law has been addressed, I'm just saying these two particular subitems, I don't believe we need to address as such. That's the only thing I was saying. Stephanie is thinking.

STEPHANIE PERRIN: From a meta view I have a problem with this whole concept of Anything New anyway, what are we supposed to be saying here under the Anything New? Under Anything New, these topics all arose and we're dealt with and it happened since the last review, so what are we supposed to be saying? As I have said early on, is this a program review or is it an audit? It's very unclear what a WHOIS review is. I don't know. I would be reluctant to drop it, obviously because it's my favorite procedure in terms of absolute lunacy and I think it says a lot that we allow this to perpetuate for the last six years.

ALAN GREENBERG: And I'm agreeing, I think we need to make a statement like that. I'll point out Anything New was a topic we invented ourselves, so we have no one to blame but ourselves if we don't know what it is.

STEPHANIE PERRIN: I should have come to the last meeting here obviously.

ALAN GREENBERG: No, no, this was not even done at the last meeting, this was done teleconferences before that I think. Lisa.

LISA PHIFER: Yeah, that was part of the development of terms of reference which we did over three months and in one face to face meeting here in this room. To be a bit more specific, Anything New began with a rather long laundry list of all of the policy and procedural developments over the past six years. I think it was step B and the objective was to from that long list, identify areas that were significantly new in WHOIS that weren't already addressed through the first WHOIS Review Team, to basically do a gap assessment.

All of the sub groups that are looking implementation of recommendations of the first review team, anything they might not have looked at because it was brand new since 2012 and therefore deserved looking at. I think as we look at this long list, we need to be searching for those areas that none of the other sub groups have touch and yet still need a critical eye as to what's happened and whether there are any recommendations that need to be made.

ALAN GREENBERG: If I can summarize the way we came out of the sub group meeting and I think is now represented here, is there are several of these items which raised compliance questions and we are tossing those over to the compliance, the other ones either we do not believe there are implications that we need to look at related to WHOIS or they are already being handled by some of the other sub teams.

We have identified or reiterated in this meeting, that we may well want to look at things like complex with law and make a generic statement, not about the particular procedure being discussed in the GNSO but just a level of frustration that ICANN has not focused on that and I think what are we already said, is under strategic direction we would be raising that as an example of why we believe that WHOIS was not treated strategically within ICANN over the several years.

STEPHANIE PERRIN:

This one also belongs under the Consumer Trust one because the problem with WHOIS complex with law is only the good registrars bother getting an exemption to protect their end users and enforce their privacy rights, the scofflaws don't bother. Are we aware of that as consumers if we go to the ICANN website, to that main WHOIS porthole and find out whether our rights are being protected? No. How hard is it to find a list of those who've applied for a waiver to protect your data protection rights? Almost impossible. It belongs under both.

ALAN GREENBERG:

I think we decided if something belongs under both we would decide where it goes.

STEPHANIE PERRIN:

I believe I heard, shouldn't it just be killed.

UNKNOWN SPEAKER: To clarify, I did not say that, what I said was, isn't Michaela the only one that's requested that waiver?

STEPHANIE PERRIN: No, there are more than that now. There's a few.

ALAN GREENBERG: First of all, we know there are no scofflaws in Europe. There are no registrars who don't care and who are not acting honorably. Every European registrar of course, acts honorably.

STEPHANIE PERRIN: Well, there's a few in Canada. Nobody's applied in Canada that I am aware of and they need the same exemption in Canada under PIPEDA.

ALAN GREENBERG: Obviously, they don't care.

STEPHANIE PERRIN: That's the data protection law in Canada, Personal Information Protection and Electronic Documents Act. I know it's a terrible acronym. Blame the house manager because he decided to put two totally unrelated pieces of legislation together and wrecked my name for the law.

ALAN GREENBERG: Our personal regrets but I don't think this is a WHOIS issue. Are we done with Anything New? Let's keep on talking about her for the rest of the day. It's a four and a half hour sleep that probably did it. Susan, please go ahead.

SUSAN KAWAGUCHI: Once again, I keep backtracking on my own statements but, we were stressing not talking about GDPR as we did our review but in some ways, I think the Anything New sub group will become extremely important come June, cause there will be a hell of a lot new. Is that where we're going to? Obviously, each sub group may need to at least think about GDPR after it's May 25th but it might be that's where we park a lot things that are Anything New because of the GDPR.

ALAN GREENBERG: We have a speaker cue of Erika and I'm going to call on Chris as our board liaison to talk about just how are we going to handle a moving landscape which is going to continue moving for a long time. I did not sign up for this for life. I'm happy to let someone take over. Erika, please go ahead.

ERIKA MANN: I'm working on for somebody else on an overview about the various law enforcement initiatives around the globe and many of them have relations to WHOIS. I wonder if under Anything New we want to include the law enforcement recommendations or maybe under Anything New?

I don't have a placeholder for it but just saying that there are more and more initiatives around the globe which clearly indicate that law enforcement are relying more and more on WHOIS data. I don't think that we even have to go more in details, we have to list all the various laws where this is debated right now, just to maybe have a reference to it.

ALAN GREENBERG:

I'm going to defer any further comments, we're a half hour past our break at this point and we can resume this discussion, let's take a short break.

We are resuming the morning session of the third day of the RDS WHOIS2 Review Team on the 18th of April. We were close to finishing the discussion on Anything New and I believe I had asked Chris if he had any thoughts on just how are we going to address this issue of a constantly changing environment with regards to GDPR, at least from the Board Caucus Group's prospective or his personal perspective.

CHRIS DISSPAIN:

This is really hard isn't it? It's pretty easy to draw a line now and say that this is the work we've got to do in respect to reviewing stuff that's already happened, that's fine and I know we all know how to do that. The question that then arises is, there are several questions that arise, one question that arises is, yes but will what happens in the next few months make the work that we've done in respect to item X redundant?

And the answer to the question is, yes it may well but that doesn't necessarily mean that we shouldn't do it because there may be lessons in respect to other things that come from doing that work. The bigger questions is, how long do you wait to see what happens with GDPR? My assessment, for what it's worth, is that it's going to be a minimum of six months from the 25th of May if not longer before anything useful can be said.

There are only three things that can possibly happen. One is, that we get a more moratorium, in which case WHOIS remains open and there is a process by which a GDPR compliant model is put together using the ICANN Multi Stakeholder Model, that's the case, then nothing changed in respect to WHOIS in the interim period and this review team has no role in the making of that model.

The second alternative is that we are required to bring the stuff to happen on the 25th of May, we put in place an interim policy with a bare minimum of requirements and then spend time working over the next six months to 12 months on things like an accreditation model and so on. Again, given that it would only be an interim model and given that it will not have bedded down for very long, I'm not sure the efforts of this review team are going to desperately relevant to that. What's going to relevant is getting the people on this review team back out into the community and helping the community in their various roles and responsibilities and constituencies to make sure that whatever we move from a bare bones interim model is as conscious based as is possible.

The third alternative is that we just close the whole thing down, which frankly I think is the least likely alternative but I'm not ruling it out. If

that happens, then well, we're back to lobby to who's up again but again, there's nothing for this review team to necessarily to do about that. I don't know what you guys want to do? I'm unclear as to what people think this review team should be doing but frankly, I think the concept of hanging around for six months or more or post May the 25th and waiting to see what happens with GDPR is not something that this team should be doing. I hope that's helpful and I'm happy to answer any questions.

ALAN GREENBERG:

It's helpful to me. I've on occasion made comments that I think because of the delays or other things, we may not make our December target for issuing of a report and I've gotten a little bit of pushback from a few people saying they're worried when I say things like that. That tells me that we are still intending to try to issue a report in the December timeframe. Maybe it slips a month but that's what we should be planning for.

The Board will be in an interesting position because by the time they have to pass the judgment on it, the world will have changed by then. That will have been a full year and a bit from now and a full year after May 25th but I can't see trying to rewrite our report on the fly as new things maybe happening in the timeframe of the end of the year. We may well have to put something saying, "We know this doesn't make any sense anymore but the world is fast as pie." I think we have to try to our best, on the other hand this should not be the review that goes on forever.

STEPHANIE PERRIN:

Sometimes I think either I'm not expressing myself clearly or I'm not adequately explaining my frame of reference when I make interventions on certain topics such as this one. I'm going to have another stab at it, please be patient. I don't for a moment propose that we wait around for GDPR or whatever happens to analysis any of these things.

What I propose is and I'll tell you why, the reason to explicitly frame this in the context of the current changing environment and mention things that could change under GDPR or prospectively without waiting to see whether they do or not because if they don't change, I take Chris's three options onboard, regardless of whether they change with option one, two or three, the issues remain the same, they're on the table and there might be fighting about it for years.

We can frame this in terms of what's changing and we can say, very clearly upfront, our task is to analysis what happened after the last review and were the recommendations brought forward and what happened, what do we do based on the last review? Then have a look forward but because we deal with such an impatient, difficult crowd at ICANN, if we don't mention this, our review team report may be dismissed as a waste of time.

I think we should guard against that because whatever my criticism of the review process is right now and how it's cemented in the AOC and how it hasn't evolved enough to do deal with what mature organization needs to review and check on and do program review on, it's all we've got and throwing it out with the bath water is not a good option. We

have to look like we have done an absolutely thorough job under the current rules and look forward as well so that they don't throw it out as being, what the hell were they doing and I think that's a risk. I see Chris looking worried, so obviously he doesn't think it's a risk but I do.

CHRIS DISSPAIN:

I just want to respond when you are done, that's all. What I don't understand is what this review team can review about GDPR? I just don't understand. You could wait until the interim model is put in place and then review the data fields that are published, if indeed any are published. You could make on those but I just don't know whether that is of any use to anybody? If that's what you think that's fine but my point is not that you shouldn't do that, my point is more, where do you draw the line? We all know that something is going to happen on the 25 of May.

I've been very vocal, perhaps not vocal in email, in suggesting that in respect for example to reaching out law enforcement and saying. "Is your access to WHOIS adequate?" I think that's a paraphrasing of the question that's part of this group, actually it that would be a much more sensibly done in June or late May, once we know what the elements are because we all know what the answer is going to be, it's going to be no but is it worth doing?

I'm not saying you shouldn't do any work on what happens in GDPR, I'm just saying, where do you draw the line? How long do you wait? What is it that you actually think you should do post the 25th of May? Because if what we're talking about is a full-blown review of all of the aspects of

the interim model, frankly I think that's more likely to be treated with disrespect by the community, simply because there will have been no time whatsoever for anything to have bedded down and be settled.

STEPHANIE PERRIN:

Erika had her hand up but can I respond to that? That's kind of a case and point, I don't think I said delay ever. I don't think I said review everything. However, the GDPR is not something rising out of the sea like Venus on the half shell on the 25th of May, it passed two years ago. The fact that we didn't pay any attention to it two years ago and feeded into these process means we're having to revisit work where quite frankly, we had plenty of warning, some of us have been nagging about this for years and that's a failure. I think there is a couple of spots where we can tag is and say we failed to realize this would bring major changes, however they roll out, there's three options. I see you're looking worried but that's all I'm suggesting and I think can be a short list.

ALAN GREENBERG:

Can we have one person speaking at a time please.

CHRIS DISSPAIN:

If what you're saying is that you think it's worth this review team looking at the way that ICANN dealt with GDPR two years ago, whenever to now, I don't have any issue with that if you want to do it. I'm not clear as to what it has to do -- that is a review of ICANN's mechanisms dealing with stuff that happens. It's got nothing to with

reviewing WHOIS. It's reviewing ICANN's ability or otherwise, to deal with regulations and laws made in various different jurisdictions and that is not in your scope. I'm not stopping you from doing but that's where I sit with it.

ALAN GREENBERG:

Whether it's in our scope or not, we have already decided we would make a statement that we believe that how this was handled was not good and ICANN should think about how to do it in the future. Whether it's out of scope or not, the Board can ignore it. I don't know if we're going to make a recommendation but we said already, we will raise that issue, why are we debating it again if we've already made the decision? Stephanie and then Erika.

STEPHANIE PERRIN:

Just one point on that. Like I say, the GDPR didn't show up like Venus on the half shell. The requirements of the GDR have not substantially changed, there are more documentation requirements, I won't go through the list. The principles, the Data Commissions have been writing ICANN for 20 years, so the principles haven't changed and that is a factor that I think we need to acknowledge, that's the only reason I bring it up, that we ignored all of the advice we got on data protection, which is directly related to WHOIS and now we have four percent fines and all of a sudden the people in the community no longer want to take that policy choice and ignore it. That's all.

ALAN GREENBERG:

And my question, if there's an answer, why are we debating it again when we already made the decision that we would be making that statement? Erika.

ERIKA MANN:

I think Chris pointed rightly to the three potential scenarios. His conclusion was related to the question whether we shall continue to debate the legal implication. One law in the world, the GDPR, is going to have potentially on WHOIS. My argument would be no we shouldn't. I think we need to stick to our deadline as much as possible but there's certain conclusion which we can take, which are relevant and we have to evaluate all our sub group work, which may be relevant to our sub group work.

I took note on some of the consumer issues because give you one example Stephanie, I believe depending on the outcome of these three scenarios or potentially even more, an option ICANN has and will then chose one final option, the relation to WHOIS and to consumers will change. If WHOIS totally dark, it's a different scenario in the future.

Since it's not our work to evaluate what is going to happen, but we still might want to find Alan maybe somewhere, where we can capture and where we are allowed not make a recommendation but maybe to express our opinion on this topic. That's something Alan will have to decide if he can do this.

ALAN GREENBERG:

Again, I think in the groups we've already talked about, we have pretty well said we will do that. We're trying to evaluate what the law enforcement issues are with regard to WHOIS and there's no question we'll make a statement saying, "As GDPR gets fleshed and as our implementation is fleshed out, chances are law enforcement access will decrease not increase." And we'll note that.

If we ever get to it, we're going to talk about Safeguarding Registrant Data and that one will go in the opposite direction. We don't safeguard registrant data to an extent right now in terms of stopping people from accessing it, it will get better. We don't know the exact details. We will certainly comment on those. Those are two good examples, they're going in opposite directions.

More than that, I'm not sure we want to try to evaluate. Even if we knew today or tomorrow exactly what the GDPR implementation would be, assessing the impact of that is going to take a while. The day we make the announcement there's going to be a bunch of people who are saying the sky is going to fall and we're not going to survive throughout the year and there will be other people saying, no, no we'll not even notice it and who knows where the answer really is, somewhere in between perhaps. I don't think we want to do that hypothesizing.
Susan.

SUSAN KAWAGUCHI:

I think I am in agreement. I think what is unclear is exactly what we agreed to in the past, in discussions and maybe we need to define a framework of how we address GDPR so that each sub group addresses

in the same way. Is it simply these issues came to mind? I think we have an opportunity that we are so focused inside the review team on WHOIS or registration data and outside most of us joined the review team because we have that focus.

We do have good minds in the room, that we could not spend a month or even weeks, but as we're doing our work, note impacts that GDPR may or may not make and add that as commentary in the report. I'm also really sensitive and sometimes you just can't stop holding a grudge, to the reaction to the first WHOIS review team report, that I think also bias that report and caused some of the problems we had with the Board not acting quickly because we put out our report, looking backwards, reviewing the current.

Our job was not to -- we were a review team WHOIS1, to review the current status quo, we all sat in the room and said, "This isn't going to last." And we made some references and some suggestions that something needed to change but we didn't come out and say, "Look, this is problematic to review this because it really all needs to change." Because we did see the GDPR coming down the pipe. Maybe not in that form but we saw data protection being a huge issue.

Then SSAC came out with what I'm still offended, is not the content of their report but the name of their report and that's where my grudge holds. It essentially took the tension of the community and said, "They don't even know what they're talking there, they didn't even look at the right stuff because everybody went with the SSAC report."

Now, in long term did what was right, they implemented, made sure that most of these recommendations were implemented from the WHOIS review team but I'd really like to avoid that perception that people go, "Oh yeah, you did all that work, whatever, why did you even do it?" Because that's the perception out there already.

But I don't think that is like months of work, I think that's a two or three-page document and maybe a couple of attachments. I think having a framework so that we make sure that I understand exactly where we should mention GDPR and when we should just say, "Nope, we're just not even going to go there because we don't have enough information." I think that would be helpful.

ALAN GREENBERG: Cathrin, go ahead.

CATHRIN BAUER-BULST: I just wanted to ask Susan because I'm not aware of the SSAC issue, what was the issue with the name of the report?

SUSAN KAWAGUCHI: Do you remember the name? The Board asked the SSAC, as it normally does to review the report. The reference though is actually to -- it's a fable or parable, blind men and they all said is that everyone describes an elephant differently because they're feeling it different parts of the elephant and what the SSAC meant is that everyone had a different perspective and what is wrong WHOIS because they're looking at from a different lens.

CATHRIN BAUER-BULST: When mentioned every sub group having a sort framework which to deal with GDPR's impacts in a similar manner, I think that's a really constructive suggestion. I wanted to clarify, are you looking to identify the potential impact of GDPR on the recommendations that are made, as in this recommendation will still be useful even after GDPR is adopted verses this recommendation would have to be reviewed in light of the impact of GDPR? That would be one approach.

Another approach is, we see the GDPR having some particular impact on WHOIS RDS in general. That would be a different ask of each sub group. I'm wondering which of those you meant?

ALAN GREENBERG: I can certainly tell you what I think we need to go. We are clearly going to lead off somewhere really early in the report on a statement of the problems the GDPR has caused for us, both in the fact that we were scheduled when it was happening. Your call that we didn't discuss not having this review because of GDPR, GDPR was not on the horizon at the time we had that discussion. Was not being discussed within ICANN in general but we still had significant concerns that this was not a timely thing to do. There was a PDP going on already.

We are certainly going to describe the environment that we're living in when this review was chartered and GDPR is a significant part of that environment. In fact, the land was moving under us and was going to continue to move while we wrote the report and soon after we wrote the report. I think we're going to have to be straight about that.

We will also make a statement somewhere or other about a dissatisfaction with how ICANN responded to GDPR, that's a separate issue. In terms of the recommendations, I do not think we want to make any recommendation with the caveat saying, this is recommendation may not matter depending on how GDPR unfolds. We may want to make a different recommendation saying this needs to be reevaluated once the ground has settled but that's a different issue.

I think it is reasonable for us if we're assessing as example, consumer safeguards, law enforcement, consumer trust, to make as best an assessment as we can at the time, about what the impacts might be coming out of it or say we don't know. I don't think we can make any of our recommendations or any of our analysis, without showing that we're cognoscente of it.

I don't think that we can do a lot more than that and I certainly don't think we want to reopen our full set of work to reassess it each time. That doesn't say that when it comes to November we say, that this recommendation that made of sense in April just doesn't make any sense in where we are. It's in our brain, we're going to have make sure that whatever we're saying makes sense but I don't think we should plan on a continual reassessment actively, other than knowing it's in the background. Erika.

ERIKA MANN:

Alan, I agree with you. There's one other item we might want to be a little bit careful, WHOIS serves the global -- it's a global tool, it's not just a tool for Europeans. We want to be as well careful and use the GDPR

whenever we are reference to it as an example because I know pretty much example from Chinese or from areas which have a violently different opinion about WHOIS shall be used or is used.

We have to super careful here as well and depending on the implementation, for example goes dark, I'm pretty sure we will have some real issues with some other regulatory authorities in different domestic areas. I think we have to always make sure whenever we talk about GDPR we use it as an example and not as the main focus.

ALAN GREENBERG:

I think that's a really important issue. I think we need to note at several different levels. GDPR is the flavor of the day, it's currently the one that's on our minds today. The more general issue is privacy legislation or for that matter as Erika was implying, disclosure legislation. If the US Department of Commerce comes out and follows up on what they've said verbally of we must have an open WHOIS and legislates it in the US, I'm not predicting but who knows.

GDPR is the flavor of the day and perhaps the code word we will use throughout the document for want of something better or maybe we decide we use something better. It's the general issue that WHOIS has to be cognizant of going forward, not necessarily the particular legislation we're looking at with the finds today.

I think that's a really important point and we don't want to be -- as much as we want to be cognoscente of GDPR, we don't want to be accused of thinking that's the only legislation around that may affect us

because that's not the truth. It could happen in both directions, just to make our life more interesting. Susan.

SUSAN KAWAGUCHI:

To answer Lisa's question that she asked awhile back. I do think that the framework should address some of the issues and Erika I absolutely agree with your point, let's don't make the assumption this is global and GDPR will be implemented everywhere and that we do address this as more of data protection privacy laws globally may have an impact and if that is true than this recommendation may not be affective. We probably don't want to make a value judgment but I do think we need to capture those thoughts.

But I also think in that framework we should suggest a short analysis of why we think that and what's the impact? What's our analysis for that? Not recommendations but any suggestions for ICANN community as a whole to think about if a new law comes up or competing laws come up. I think if have a framework we're all working from, then we don't get lost and it makes the report more readable.

ALAN GREENBERG:

To recommend that ICANN not be caught but surprise again, we could recommend that it be made a strategic priority. Thank you, Lisa for smiling.

LISA PHIFER:

I'm going to try to sum up what I just heard and see if this is the beginnings of an approach. I heard Alan you say that the report should

lead off somewhere early on with a statement about how the review team handled GDPR and the changing landscape, so that the reader is aware from the get go the approach the review took.

That somewhere also probably early on in the document an observation/recommendation, I'm not sure which that would be, would be made with respect to how ICANN handled the coming impact of GDPR and other applicable laws. I don't know what your catch phrase will be but something that addresses both Erika's concern that it not be specific to GDPR but yet a comment on how ICANN handled that. Then within each sub groups report there would perhaps some kind of standard section that would address any observations the sub group wants to make on the impact of GDPR on its findings.

That might be for example saying in the positive that recommendations about procedures would have no impact as a result of known and future data protection laws. Or it might be a recommendation that that area needs to be reassessed after whatever happens as a result of GDPR and some oncoming legislation. Does that sum it up?

STEPHANIE PERRIN:

I think that sums it up admirably. I'm sorry Carlton isn't here to back me up but the emphasis on risk assessment and ongoing comprehensive risk assessment, had we at ICANN had a regular pattern of applying risk assessment to our activities, then this would crop up right away, if you did a risk assessment on a particular PDP and you hadn't paid any attention to existing data protection law, then you'd have a problem.

Particularly on the law enforcement, it is my view and I'm sorry I missed the talk this morning, I was trying to tune in from downstairs but I couldn't, the lack of concrete data about law enforcements use of the WHOIS and the lack of the ability to a credit. Nobody over in this corner ever said law enforcement should not get access to WHOIS data. The question is how? And how do we know they're law enforcement? What do they need? What do they actually use? Trying to get that out of law enforcement is -- that's a struggle.

To just say it needs to be open and ignore the fact that's exposing people to spam and all kinds of crap, that's a risk. That dialectic that's been going on, that's a risk that we should have noted and said we really need more data and we really need to solve this problem. I would hope that under the law enforcement section, we could get into, with the coming of GDPR, maybe we need more data on this, this, this and this and a more streamlined way to get access.

The prospect of law enforcement going dark and thus forcing legislation in every country is a bleak one and it's not necessary in my view, had we done any of the work. We're going to face laws getting slammed through legislatures that are not in anybody's interest if we don't figure out a clever -- fortunately I have the answer though in those accreditation standards.

ALAN GREENBERG:

Further comments? The next item on our agenda is Safeguarding Registrant Data, nothing luckily nothing that has to with GDPR. Again, I wave my joke flag, just in case no one noticed. The members of the

subgroup team are myself as rapporteur, Dmitry, Stephanie and Volker. The objective, consistent with ICANN's mission Bylaws, the review team will assess the extent to which the implementation of today's WHOIS currently gTLD RDS, actually I think it should be today's RDS currently WHOIS safeguards registrant data by identifying lifecycle of registrant data determining if how data is safeguarded in each phase of the cycle. Identifying priority gaps, if any and recommending specific measure steps if any the team believe are important to fill gaps.

During the discussion phase we decided that although A, C and D were rigorously necessary, it was being done in parallel and the answers to some extent simple enough that we decided to not go through that formal part of the process. The answers to B, which reverts to determining if and how the data is safeguarded, currently in WHOIS the data is made fully available, so in terms of protecting it from access, there is no safeguard. GDPR will invariably restrict that somewhat but to what extent, we don't know at this point.

The other aspects that we decided to look at was, protection of the data, that is protection from loss and or alteration during the various processes and for that we decided to look at Escrow and to find out -- well, first of all, the aim was to find out just how the process works. It turns out it's very well documented and we didn't really require anything other than being pointed to the right documents to find out how it works.

We did propose that we talk to Escrow providers and registrar, registries on trying to find out to what extent -- what kind of recourse the go to to protect the data from access by or changing from people who shouldn't

have access. We didn't get very far on that and that's one thing that I'd like to discuss with this group today.

One of the issues that came up at the last moment is the issue of notification on breach. If indeed a registrar, registry or Escrow provider has any indication that they have been breach and of course, as you're all aware, sometimes you find out, sometimes you don't and sometimes you find out what data was breach and sometimes you don't but it wasn't clear that there was any requirement for these providers to let ICANN know that there had been a breach.

There may well be a legislation within their jurisdiction that requires them to let the individual know but typically there's certainly nothing in our contracts that I'm aware, that required ICANN to be notified of breaches, not do I believe and I'm not sure it would be a good idea, to put anything in that allows to audit their security precautions or whatever. That's where we sit today.

The questions that I have for the team or the subgroup has for the whole plenary is, how far should we pursue trying to Escrow providers and registrar, registries to try to understand their experiences, both in terms of how they do their protection of data and to what extent there have been any breaches or problems. None of these people are obliged to talk to us, the question is, can we through good will get anyone to talk to us? To what extent do we push that?

Then the question is, to what extent do we believe that breaches should be reported to ICANN and be made part of the contractual requirements for these various bodies? Those are the two questions,

what extend do we try to investigate with the contracted parties? What their experiences are? What extent do we believe we want to make a recommendation that would require notification on breach? Those are the questions that have come up to date. I'll open the floor.

STEPHANIE PERRIN:

Not to get back into dreaded GDPR land but one of the requirements under GDPR of course is to specify how your processors, what your chain of command and one of the things it implicates ICANN as it data controller into this chain, having liability I would say, is the data retention spec.

All of the registrars swear they're never sending any of the truly sensitive data, the financial and IP address data to Escrow but they are supposed to be retaining that for a couple of years, to the extent right now, ignoring the future, there is a chain from ICANN to the registrar and the aforementioned resellers, whom we don't generally trust, that they have to hang on to their billing data and IP address. That stuff is sensitive, including all email surrounding the purchase of the website/domain, as we said, many think they're buying a website and don't understand what their rights and the domain name are.

Never are there any security standards sited in the requirements and that's kind of antique now because it's pretty normal in a contract to say you need not just industry standards this one, this one and this one in terms of your security standards. I think it's high time to update the RAA and say, the retention has to be to the following standards,

because that's where the data is going to go missing, at the end point because they've got the sweetest data.

ERIKA MANN:

That's a very good point Stephanie's making but one has to be thick and super cautious, first of all it refers only to a particular law and if not globally applicable so the second, the conflicting laws coming in the European Union which will have an impact on data retention.

One has to be very careful and ICANN has to be in whatever they are going to recommend with regard to data retention and WHOIS processes because I would be surprised I would be wrong in predicting that this is going to change because of different law enforcement, this time in the European Union as well, relate initiative. I think any recommendation ICANN is going to make has to be super cautious and careful. It's an important factor.

STEPHANIE PERRIN:

And understand I'm not saying we predict exactly what we should be saying there but just to note that it's too vague right now, it needs to be upgraded to the level of specificity that is required in 2018.

ALAN GREENBERG:

I think all we could do is make a recommendation saying ICANN should investigate incorporating specific standards or levels of whatever. Our job is not to fix the problems, it's to identify it. Certainly, the outcome of that could be, things are so confusing and going in so many directions that we really can't do that.

STEPHANIE PERRIN: Just to respond that. Regardless, we're not meeting 2018 standards in terms of what safeguarding data is. You don't just say, hey you should safeguard the data, you say, hey, we expect you to be safeguarding to certain ISO standards and you should have management procedures in place, 7799 to make sure, to guard against it, insider abuse. We know that now, so it's time to say it. I wouldn't for a moment try spec retention schedules.

ALAN GREENBERG: Riding into that to consider a recommendation on standards regarding storage and retention of data.

SUSAN KAWAGUCHI: I do wonder, I've got the RD Specification up here and it is -- first comment is, I think from a compliance point of view, they're pretty much on top of this because if you don't submit your Escrow deposit then you get notice immediately and after three or four notices then compliance team takes action.

I think from compliance's point of view -- I do sort of wonder and this where I'm just technical enough to be extremely dangerous, Escrow records shall be complied to a single uncompressed CSV text file or multiple uncompressed text files, I just feel in this day and age -- I don't understand the process, even though when I was still Facebook we did have a registrar for 10 domain names and we transmitted this but I don't know how safe that method is.

ALAN GREENBERG:

The actual transmission is done encrypted using the Escrow providers public key. The transmission is as safe as it's likely to be today. The Escrow provider can't store the data encrypted with the registrar's encryption because they have to be able to provide the real data to ICANN or to another contracted party. The whole purpose of them getting the data is not just to store but to be able to affectively let it be used in the absence of the original sender existing.

They have in clear -- whether it's in clear text stored or not is mood but they can make into clear text but that's part of the requirement. The procedures look, for handling the actual Escrow look quite reasonable and they were in sufficient detail that they were too complex for me to understand but there's presumably someone who understands the details of all of this would not have a problem with it. When I started this, I really didn't know the process. I'm still thinking of Escrow providers, you give them magnetic tape and they store it away somewhere and that's not the world we're living in today.

LISA PHIFER:

I just wanted to ask one quick, clarifying question. Obviously, the Escrow provider have the ability to decrypt the data it receives, is there a requirement for them to provide encrypted or in any other way safe storage?

ALAN GREENBERG: I haven't looked at the contracts with the Escrow providers that ICANN has, nor do I even know if they're public or not, I suspect they may not be. That maybe something that we should investigate whether we can get access to those.

LISA PHIFER: Just as a follow up. You had a posed the question, how useful is it to push on the ability to interview contracted parties and Escrow providers about their security practices? I think you've just maybe stumbled upon something that you could specifically ask ICANN for that describes what the providers are contractually obligated to do.

ALAN GREENBERG: I think I've just asked them, haven't you taken note? I'm willing to put off the decision on whether we in fact go and try to interview people who are not necessarily willing to be interviewed and don't want to tell Joe Blow in the street and that is us since we are public, that they have had incidents or not. Nor am I sure the people I'm going to be talking will even know or have access to that information.

Registries and registrars, I find it hard to believe they will likely open up to us unless we can get Volker to. I'm willing to put off that discussion until we can see if we can get access to the contracts that we have with Escrow and I hadn't thought of that before.

SUSAN KAWAGUCHI: I have a comment and a question, probably for Erika or Stephanie. You can send them a CD-ROM or a DVD or a USB, there is still physical ways of sending the data. You're not too far off with your magnetic tapes.

ALAN GREENBERG: I'm still thinking of Iron Mountain as a big place in a mountain where you kept the magnetic tapes.

SUSAN KAWAGUCHI: They probably still have some of those. But the question when we were thinking about this at another time, I was wondering is and I don't know how this is handled from a government point of view but in a country, if there is a duty to report a breach, does that become public knowledge? Is there a database we could just go to and say...?

STEPHANIE PERRIN: It depends on the country or the state. There's 50 states with data breach requirements in the US. In Canada, for instance, ours are just kicking in, they passed them ages ago, you have informed the Privacy Commissioner and they decide whether or not you have to inform all the individuals, just in case you haven't already decided. It varies very much by state. It's very prevalent now. Breach disclosure stuff in many, many data protection laws. Big job to go around and check them all. I haven't done it, although Gram Greenleaf has an excellent little repository there, he may have done it.

ALAN GREENBERG: Question for Stephanie. Do they, and I'm speaking specifically of GDPR at this point, to your knowledge, if there is a data breach, are you required to inform the data controller?

STEPHANIE PERRIN: I think you do, I think there are requirements and again, I don't know them by heart. You have to lay out your data flow and your data responsibilities and that is specifically with data breach to portion the liability and responsibility. In that chain, it wouldn't make sense not to inform the data controller. As soon as ICANN wakes up and realizes it's a controller then there will be an obligation passed on to inform ICANN. In my view right now, they should from a consumer protection point of view.

ALAN GREENBERG: Of course, that's GDPR, yes, I understand. I think we probably do want to think about a recommendation on data breach in the general case.

ERIKA MANN: You definitely want to do this to have a general recommendation, I absolutely would agree on this. On the data controller point, we even might want to make a recommendation concerning the data controller point, a general one. Making a recommendation that something ICANN may have to check and I'm not really talking about GDPR, a general one because it's in many laws, an important point.

Concerning the GDPR, one has to be careful, ICANN is only in so far, a data controller, as the data is really stored with ICANN, otherwise if the

data is not mirrored inside of ICANN, if it's not mirrored, then ICANN is not a data controller. It's ambiguous point. I don't believe ICANN even investigated and evaluated this point but again, it's separate.

ALAN GREENBERG:

Again, that is GDPR specific and I think we're already saying that as a concerned party, ICANN should be informed regardless of whether there's a law saying they must or not.

STEPHANIE PERRIN:

Yeah and I think even though we don't want to get into this whole debate over whether it's a controller or not, we might ask ourselves the question, would we want ICANN to be a controller so that it has some control over some of these processes? Because what we don't want is to have ICANN, in my view anyway, if ICANN says no I'm not a controller, I'm not even a processor and I'm getting out of the Escrow agreement, which in my view plunks them into controllership because they're the only ones who have access to the escrow data, that's control.

The fact that Iron Mountain is the processor is irrelevant, ICANN's the controller, let's not argue about it but that's my view. We kind of want that because you lose control of the data. We can't impose all these requirements through the contract at some point if ICANN is not the data controller. There are repercussions to avoiding responsibility under GDPR.

SUSAN KAWAGUCHI:

I just did a Google search and I have no idea, privacyrights.org but it is interesting and I vaguely remember this now but according to this Verisign they have -- this website has records of data breaches and you can search by company. I popped in Verisign, Verisign was hacked repeatedly in 2010, they didn't disclose this until September of 2011, it was a hack and supposedly records breached zero but it's a hack -- did they really, what did they get?

Maybe they didn't get anything, we don't know. You could almost take this example and say, hey we know Verisign was hacked, that's huge, expect that it's only thin data but still they were hacked and did they report that to ICANN? Probably I bet because Verisign's a pretty good player but that's just because they're a good player, do bad players report breaches?

ALAN GREENBERG:

Remember, we're dealing in a world where very often you find out you were hacked by accident or something just happens that causes you to follow a breadcrumb trail. You may or may not be able to understand what was taken and how much was taken or what was changed, depending on just how good your audit trails and other things are related to these systems. It's amazing how good they are in some cases.

STEPHANIE PERRIN:

I just want to say that privacyrights.org is Privacy Rights Clearing House, they've been at this a very long time, they coined the term identify theft, they don't have junk on their stuff.

LISA PHIFER: I just want to clarify so Susan, the breach report that you just referenced, there's no indication in that that specifically what was hacked was WHOIS information, correct? It's just Verisign the company experienced an incident?

ALAN GREENBERG: Verisign's files related to certificates are probably a lot more interesting than -- do we know which Verisign it was though? There are of course several Verisign's right now.

SUSAN KAWAGUCHI: 2010 I think it was the Verisign. No, there's some language in there that references web addresses and the registration data. It sounds like the blurb came from -- I turned away from the page, I could bring it back up. It talked about -- there could have been a possibility that this information concerning registration data was compromised.

They had a second hack in -- a breach, a possible breach in 2007 that was reported on that site and that references an employee's laptop with sensitive information and ability to get to employee information, was venerable. Between reading those two really quickly, I would think that it was the register being hacked. Now, I've asked that question specifically to Verisign and got a response that no, no, no we've never allowed registry data to be compromised, so.

ALAN GREENBERG: People can access it but if they can't change it, then you may be okay. It depends what the data is. In the case of WHOIS data, it's already publicly available and stored, it's rather moot if someone can access it under today's rule.

SUSAN KAWAGUCHI: No, because you have to pay to domain tools or another party.

ALAN GREENBERG: To get it all mass but not just some data.

SUSAN KAWAGUCHI: If they took the whole WHOIS record and downloaded it...

ALAN GREENBERG: If, we don't know that.

SUSAN KAWAGUCHI: No, we know nothing but I'm just saying that a data breach could be critical.

ALAN GREENBERG: I think we've already decided we're going to recommend that ICANN institute a practice that they have to be notified and with some detail.

SUSAN KAWAGUCHI: Again, I think we're agreeing vehemently. It's an explanation Alan, not arguing.

ALAN GREENBERG: Is everyone comfortable about deferring the question of, do we actually try to interview registrar, registries and Escrow agents until we at least look at the Escrow agreements if we can get access to it? Of course, the question by the way, is can we get access to it and do we need to sign a nondisclosure type agreement if necessary to do that? Some of us might be willing to do that.

SUSAN KAWAGUCHI: Just a quick clarification on that, would you want to see the actual agreements with particular Escrow providers or standard contract line that is used with Escrow providers? It may affect the answer.

ALAN GREENBERG: I don't know how different they are, so I'm not sure what the answer is. I would far prefer to see specific ones because I know those are the operational ones, as opposed to a contract where several of the critical clauses maybe X out or new ones added for that matter. I would certainly prefer to see live ones.

One other point is just before we started travelling here, Volker sent a note, after I completed the draft report which is quite late and I'm going to read it to you. It says, "I think we should under the shadow of the ongoing GDPR expand on the analysis section under 3A, stating that in this respect ICANN and the community seem to have failed completely

of ensuring registrant details are safeguarded from unauthorized or abuses access.

We can then point to the extreme volumes of spam under each new registration data generates for the registrant, the harvesting of data in historic data bases and various of examples of doxing, if we find any, based on this data. This would also inform the question, we could ask only contracted parties but also ask affected members of civil society.”

We had an interaction on this on the safeguard list and it morphed into a discussion of, is this is a discussion of GDPR? I’m putting in my own words right now, another chastisement of ICANN for not taking appropriate action early. I have a number of concerns that he is raising a position that is widely held but some of members of the community and widely objected to by others and therefore it’s not necessarily the entire community that believes that we have overused data.

The Review Team can come to a conclusion on that, but we can’t claim it’s the community that believes universally number one but it morphed into an idea that we’ve now been talking about several times of treating this as an example of the ICANN not treating WHOIS strategically, that is we got surprised by it when there were breadcrumb trails all over the place saying this was coming. He didn’t respond to that last message, so I don’t know whether he lost interest, got involved in something else or agreed with it but I just thought I’d put it on the table. I did forward that last message to the entire plenary list, so everyone should have seen it.

STEPHANIE PERRIN:

I mean once again I don't actually think we need to politicize this by discussing it in the terms of GDPR, I rather think that the safeguards principle in the Canadian Legislation is stronger than the EU Directive Safeguards Principle and all this to say that there's a 120 laws out there that they say you have to safeguard data to varying degrees, even the Korean Legislation is more explicit I believe in terms of what kind of security requirements.

Our remit here is to look at safeguarding registrant data, we don't have to get on to GDPR, we can say, really as of 2018, we need a revision of how ICANN manages safeguarding of data. I would sidestep the fact that you publish everything in the WHOIS is because that will bring all of these fights again. It's down to, have we specified how you safeguard the data? I'm really worried about what the resellers are doing because I'm not convinced at all they even understand the ICANN framework, weak as it is.

I don't see anything that keeps them honest when they're dealing with registrants and they've got all the sensitive data. That's an example of where really the due diligence, in terms of safeguarding of registrant hasn't maybe been up to snuff. I would advise GDPR -- talk in terms of the evolution of the security community.

ALAN GREENBERG:

I think we've already agreed, we're starting off with a statement saying we don't safeguard data. We don't do any. It may get better in the future, it will change in the future but we're not doing any right now. Using this as an opportunity to chastise ICANN for ignored the issue, I

think belongs somewhere else in the more general treatment WHOIS all together in respect of things like GDPR, so I don't think we need to repeat it in this section. Was the gist of the outcome of that discussion. You don't seem convinced.

STEPHANIE PERRIN: I'm just wondering if I talked past you. What I'm saying is you really do need to focus on the fact that we haven't kept up with required industry standards for safeguarding of data. That's what I think is the message.

ALAN GREENBERG: That was the first statement. The fact that we're saying we are not safeguarding data at all, I think makes a statement that we are cognoscente of there's perhaps an obligation to safeguard data, otherwise we wouldn't be discussing it. We'll debate the words as we go forward. I think the overall intent is already there. Further comments. Lisa, you have any follow-on clarifications or asking us for clarifications?

LISA PHIFER: I don't think so.

ALAN GREENBERG: Okay. We had a 30 minute parking lot to discuss things up until 12:30, we have the option of starting an overall discussion right now on either a general issue or going on to the subgroup two to five summarize the findings or we can break for lunch right now, if the lunch is ready right

now. Just to review what else we have to do, we have an hour and 45 minute session this afternoon reviewing subgroups two to five. We have a further 40 minute parking lot. A workplan review, a wrap up which includes looking at the structure of the final report and any other business closing at 5:30 projected.

Essentially, we don't have a lot of very detailed work we have to review, come to closure, make sure where we're going. We don't have a session tomorrow morning to review today's work, so we're going to do it now. That's why we don't have a session. We have Alice and then Stephanie.

ALICE JANSEN:

Thanks, Alan. There are a number of things we'd like to cover with you before we leave Brussels, before you leave Brussels, we stay here. First of all there was the Critical Assessment of whether any changes need to be made to the subgroups?

We also wanted to touch on the WHOIS Implementation Assessment Framework that Susan helped develop, to sort of see if we're going in the right direction from that standard we set at the start of the review. Then we have the Draft Report Template that we'd like to have adopted at this meeting so we can start populating on the ICANN Org's side.

There's an extensive list of review team agreements and some action items as well, that we'd like to have reconfirmed before you leave this room to go home, so that we can all leave the meeting with a common understanding of what discussions were reached and what discussions we have and what actions we have coming up. Does that sound fun?

ALAN GREENBERG: I just can't wait.

STEPHANIE PERRIN: Just under the Other Business category, although it's a logical extension to the Safeguarding Data discussion. We may want to note the evolution of Charter Law in the context of safeguarding end user rights because and I'm prompted to say this because the Court of Justice has released its 11 questions based on the Facebook case that came to the Irish Courts on whether or not the replacement to safe harbor is adequate and most of those arguments flow from the Constitutional Courts, interpretation of the Charter, just as many of the arguments in Canada come from the Supreme Court not the Privacy Act. I don't suggest we get into a big Constitutional Analysis but we might want to just note that there's more than GDPR on the horizon, a lot more.

ERIKA MANN: If it may help I'm doing right now, because some other people do need this as well, just a summary of all the potential points and legislations, not all of them globally, so I'm focusing in the moment on the EU and to some degree on one or two points on the US because it relates to EU legislation or corresponds to EU legislation. This might help us but it will be informal email which I would sent to you so you can just have it and can review it.

Concerning the precise point Stephanie was just asking, that's an interesting investigation. The European Court of Justice to do, it relates

only to the question whether companies and I don't know what I kind of rules and obligations companies are allowed to transfer data between Europe and the United States. In the moment, there's an agreement or variations of agreement, this particular case relates to corporate, even the implementation of corporate binding rules.

At the moment, most companies and I would assume that even many of our at least the bigger registries and registrars rely on corporate binding rules when they send data between Europe and the United States. That's an investigation which is going on, whether these kind of corporate binding rules can be used as a legitimate legal background to rely on sending data. Safe Harbor, it's a different one, it's much broader in concept.

By the way, that's an interesting point with regard to WHOIS. When I checked the last time, I haven't found a single American registrar three which have signed up to the safe harbor, now this might have changed in the meantime, so I would have to check it again but in the past none of them have done it.

ALAN GREENBERG:

It sounds like we have another couple of buzz words to mention in our introductory section of things we need to be cognoscente of going forward.

STEPHANIE PERRIN: Yes, and I would agree with Erika, I think they talk about Safe Harbor but I think they seem to realize that they have to actually sign up to it or they did.

ALAN GREENBERG: Any further comments before we break for lunch? Then we are adjourned. We will reconvene at 1:30.

This is the afternoon session of the third day of face to face meeting of the RDS WHOIS Review Team on the 18th of April in Brussels. We are resuming with the review of subgroups two to five looking at the findings, trying to determine if any recommendations at this point and discuss them. Essentially come to closure on the discussions we have had earlier on these particular areas and can we start? I hesitate to reopen Anything New but we will. We will have a minor pause in the meeting waiting for someone to return. Question was asked, do we want go to another topic?

Yes, let's go to another topic. We're waiting for someone on the next topic also, Consumer Trust. Erika, have you decided to leave the room quickly? The trend is as soon we discuss a topic, the repertoire leaves the room. We would like to now do a recap of Consume Trust. No, we would like you to stay in the room. I will try to recap from memory as to where were going on Consumer Trust.

One of the issues -- Is this the current version or is this the version from before we had the meeting? It's the current version. The methodology has changed, that's fine. We must define Consumer Trust to be broad and as I noted before, it's not including internet users but to encompass

all internet users. WHOIS contributes to Consumer Trust mostly indirectly.

There is a significant component of users that may consult WHOIS but the vast majority do not but it does contribute to tools that they implicitly use. The subgroup will take feedback on board and use outputs of other subgroups to assess impact of WHOIS with regard to -- this recommendation implementation on consumer trust I'm not quite sure what that means? Lisa's going to tell us what that means.

LISA PHIFER:

Erika's concept was to do a gap assessment looking at the results of all the other subgroups on how WHOIS1 recommendations were implemented and whether any of those implementations had an impact on consumer trust.

ALAN GREENBERG:

Thank you. A strong direction but still needs work, we have to be aware of the potential of drift into non WHOIS aspects of Consumer Trust. Subgroup should formulate a recommendation noting lack of reseller transparency in WHOIS as a gap to be addressed to policy and or contractual changes. Open the floor, comments? I think the single largest thing there is that we went into this not being sure if there was a consumer trust issue with related to WHOIS and coming out of it believing there is a significant one and possibly several. I guess we're wearing people down enough.

Let's go to Anything New. Several of the items have compliance implications and we have essentially sent over the questions to ask compliance or issues further flesh to the Compliance Group. Several of the items are covered by other groups because they were Anything New that was developed of our recommendation and therefore are implicitly covered by the other groups. We identified an issue related to Resellers while discussing some of these issues it fit best within Consumer Trust.

We agreed to make a general comment on dissatisfaction of handling conflicts with privacy law. I believe we're going to do that under the opuses of the overall report and not in regard to a specific item here. Noting that overall the impact of GDPR has not been addressed in this review and again, that I think we said would go into essentially a preamble saying it's one of the issues that is influx and to the extent we know things, we will factor it in but to the extent that things are changing and determine it at the time we're writing we are not necessarily addressing things are influx at the time. Comments? We may get out of here early.

Next item. We have a request to go back to Anything New.

CATHRIN BAUER-BULST: It sounds like pretty much everything except the reseller thing and the general comment about the satisfaction will just move out of the subgroup. No, I guess that's fine, sorry. I was just taking in my thinking.

ALAN GREENBERG:

You're correct, the summary is, there is nothing left in this subgroup that needs to be dealt with as a separate item. The issues that we believe are relevant that were uncovered during the discussions will be handled under the opuses of other groups. We've gone to from the extreme of having identified several major new projects, which we would have to form new teams for, to something that we're covering it within our existing structure.

CATHRIN BAUER-BULST:

My uneasiness comes from the discussion we had this morning around the reception of the first WHOIS report and the way that community reacted about the backward-looking nature. I think in presenting this in the report, regardless of whether it's under this subgroup or somewhere else, I think it's maybe just important to take into account the expectations of those who will be reading this to find something that not just relevant to problems from three years ago. That we clearly identify where there are new development that we're taking into account, even though we do have the statement or not dealing with GDPR, to show that we're not totally backward looking. I guess that's my uneasiness right now.

ALAN GREENBERG:

And I think we have enough real substantive recommendations coming out of this entire process that we can clearly say, we're not just saying yes you did a good job and we're done. I think we're going to be generating a significant amount of work for ICANN if we finish this job properly.

LISA PHIFER: To that point I hope that we would still have this review objectives in the report and the findings which lead to sort of a rigorous presentation that everything that has in fact happened has been considered, just in another section of this report.

ALAN GREENBERG: We've considered it and what we need to do about it fits well within another section, so we didn't see the need to change the overall structure.

Next item. Law Enforcement Needs. It would be useful to survey law enforcement now, establish a baseline. The same survey would need to be rerun post GDPR to assess impact. It is important the survey have global reach. The full review team can assist on the survey methodology, Lili has agreed to join the subgroup to assist, especially in conducting outreach to her Interpol contacts. Is that clear or do we need to further discuss it? I see no hands, we have a hand. Stephanie.

STEPHANIE PERRIN: It might be useful, I realize this is just a very bulleted summary but it might be useful to describe what you're surveying? What kind of a survey? What are you looking for?

ALAN GREENBERG: Thought we had a discussion on how we would accumulate the questions, did we not say that the subgroup would be proposing it and

the rest of the group would help flesh it out as necessary? Didn't make that summary but I think we said that.

CATHRIN BAUER-BULST: We also talked about what we would be assessing specifically which is the accuracy, speed of availability and completeness of the data that is available and the impact of other changes, we agreed to also add with a review to reflecting impacts of the impending changes to how the WHOIS would work. I have shared a list of questions that I have used in other context plus the questions that were used in the WHOIS1 Review Team with the subgroup and we'll now go back and review these in light of this new object of having the baseline survey now and the comparison later.

ALAN GREENBERG: Although we're not going to compare it to the previous survey, Susan did suggest that we ask, have things changed substantively in the last six years, sort of pre GDPR, have we don't anything to make it better? Has it gotten worse for any reason? Any further comments, questions? Seeing none, I think we're done on this one.

Subgroup five, Safeguarding Registrant Data. We'll formulate a new recommendation that ICANN use contemporary standards for secure data storage, retention and breach notification. I think breach notification, we are specifically talking about notification of ICANN as opposed to the individuals, which I'm presuming are subject to their own national law and I'm not sure we can impose different rules on

them, is that correct? We didn't actually discuss that but I'm looking at the words there.

STEPHANIE PERRIN: You certainly could impose further restrictions that go beyond national law. If they don't have breach notification, you can impose it contractually here no problem.

CATHRIN BAUER-BULST: It was just, add the network and information security directive in the EU also stipulates a breach notification in case of major data breaches and I believe that would apply if not to ICANN then at least to all registrars and registries that are within the remit of this law because of the essential role that they pay for the internet infrastructure. If we were to impose any such obligation, we would need to take in count that there's different regional rules that apply already and whatever we say has to be compatible with those or it would just be not valid.

ALAN GREENBERG: That's why I'm asking, do we want to talk about breaches notice to the individual registrants who I presume are the people we are talking about. Where many jurisdictions have rules, they have very specific rules in some cases and I wonder is there a danger of us doing something which potentially could be in conflict and we ended up with another conflict of national law issue. My inclination is to not get into that territory but simply restrict it in notification of ICANN.

I see no objection. Subgroup defers the request to interview Escrow providers and contracted parties, that's with respect to their security measures and breaches until we look at the specific contracts that ICANN has with Escrow providers. Subgroup to develop further findings issues after examining contracts. Comments, questions, agreement. Done. Do we have any other topics today of these to review?

What is next on our agenda?

CATHERIN BAUER-BULST: Just one more thing on this. Maybe if you do want to take a comprehensive look at the safeguarding, I was just thinking that we haven't yet included the transfer. In the case of the domain name transfer or something, it might be useful to say, we want to have the contemporary standards for the transfer, because now we have storage retention and breach.

ALAN GREENBERG: You don't mean transfer of domain names between registrars, you mean the transfer of the data from one party to another.

CATHERIN BAUER-BULST: Or to ICANN to have it escrowed or wherever else it goes.

ALAN GREENBERG: Do we have any indication we're not using contemporary standards? We're using pretty secure methodology already and that's specified in detail in the various agreements.

CATHERIN BAUER-BULST: If that's the case then we might be all good. I was just thinking if we do talk about this, it might be good just to have the complete processing operation captured and not just the end points but if the middle bit is already very secure they we might say, you could consider an arrangement such as the side to the transfer.

ALAN GREENBERG: It may well be that we're using 256-bit keys and someday we should move to 512 but that's the kind of thing that changes just as technology progresses and I don't think we need a recommendation over it. As far as I can tell, we're using reasonable mechanisms as it stands now.

LISA PHIFER: I think Catherin you're actually referring to the possible recommendation about using contemporary standards right and so what you're saying is that that should not be limited to only storage or only retention or only breach notification but to the spectrum of processing. In a general recommendation that does seem to make sense because it doesn't leave any loop holes.

ALAN GREENBERG: It's a different area because where we're talking about specific standards, we are talking about the registrar, where the contracted parties have an obligation to use reasonable standards in storing information. We're the ones who specify the exact standards that are used in the transfer, so we have full control over that ourselves, we don't need to put it in the contract as an obligation on their part, that's the difference between them.

CATHRIN BAUER-BULST: I always hate to disagree with my leadership but I will because I think we don't even know what transferring operations go on, there might be some that are covered, there might be others that aren't and if we make a recommendation as general as to say everything should be up to contemporary standards, then I think it should just cover processing of data period because that's what safeguarding would apply to.

ALAN GREENBERG: The recommendation we were talking about was not a recommendation to ICANN to use reasonable standards, it was recommendation that incorporated in the RAA the registrars and their various parties must use reasonable standards for processes that are wholly under their control. Whereas the standards in transfer are under our whole control, they're already in the contracts and the contract parts that we write. We can make such recommendation but it's a different recommendation and is no evidence that there's a problem we're trying to fix with it.

CATHRIN BAUER-BULST: No, I take that point. What's up there just struck me as being more general than referring just to making sure that the RAA that are not under our control are up to par. I would see no harm in making sure that -- if we want to be limited and target in our recommendation, there's also something to be said for just specifically covering those bits that aren't already sufficiently covered.

ALAN GREENBERG: I'll I'm reporting on was what we talked about this morning, was making sure that credit card information is stored according to appropriate standards and they follow other standards for data retention. We can certainly expand it as we go forward but that wasn't the discussion we had today. We did discuss transfer standards a little bit and determine or at least felt that we had a good level of comfort, there's no indication that we're not doing things properly.

SUSAN KAWAGUCHI: We may not have been looking -- I'm confused on which discussions, my brain is not following this as well as it should probably. We did discuss also reseller use of data and collection and we're not sure that that is protected under the RAA exactly or if it is, how is that audited and everything?

ALAN GREENBERG: Certainly, the transfer between registrars and resellers is a recommendation we can include in that, because that's not a transfer that we have any control and that's a reasonable one to include in the

overall requirement to use standards with regard to transfer storage retention. From that perspective, that's a new one we hadn't talked about before and that's a reasonable one to put it.

SUSAN KAWAGUCHI:

But that might -- as we go on, if we make more of a generic, very broad recommendation, you don't want to be too broad because then what does it mean but also you don't want to leave out complete parts of the process.

ALAN GREENBERG:

I don't think we are unless we're missing something at this point. Right now, we're talking about putting into the ICANN contracts with registrars that they must use reasonable standards and we were talking about storage and retention, now we're talking about transfer between them and their subsidiary partners and that's quite reasonable.

We can't demand that ICANN put into the RAA that ICANN should use reasonable standards itself, that's not part of the RAA. If there's any evidence that ICANN is not using reasonable standards in its own and transfer of data, then we certainly make a recommendation like that. We're supposed to be making recommendations that address issues and I haven't heard the issue but maybe there is one.

STEPHANIE PERRIN:

Have we looked? Because if we haven't looked we don't know and they access the Escrow data and the access the registrar data. We don't know what they're doing, so maybe we should ask compliance to check

itself. Come on, where's your sense of fun here Alan? We have no guarantees and if we start imposing requirements on the registrars and then we discover to our shock and horror that ICANN's not following the same standards, we will have egg on our face.

ALAN GREENBERG:

Let me try to put this gentle, I have now spent about a significant part of the last five months of my life working on making sure the SSR2 Review Team, which is looking at security issues, including within ICANN and its own data processing capabilities and I'm not sure I want to tread into that water. Chris, should we keep SSR2 on hold till we add a few more items on the list? We are just this week in the position of restarting that review team, please do something to stop that.

CATHRIN BAUER-BULST:

To say so, as part of the -- I don't mean to question at all, all the work you've put in on this and I don't want to totally reorient the approach, I just think it's a general issue of credibility if we pick out specific parts and then somebody comes back and says, why didn't you include this part in your recommendation it's just as valid to criticize, then we just need to make sure that we have that all checked. Excuse my ignorance but do the arrangements that we control also govern how data is transferred between each registry and its registrars? Okay, so that's already covered.

ALAN GREENBERG: We can certainly ask a question of compliance, I'll even do it myself and not boot it over to compliance, saying when you have access to registrant data, do you treat it in a secure way, following reasonable standards? I can ask that question. I can't imagine the answers going to come back with anything but yes.

No, no, no again, I have a fair amount of scars. If we believe that there is a problem, we can make a recommendation that an audit be done but I think we need to have some reasonable reason to believe that that needs to be done before going forward. I don't think we are going to audit their security mechanisms. Trust me, I'm not going to.

STEPHANIE PERRIN: Because we are a review team, so we review, we do not audit. But, if we don't review we don't have the information to make an educated recommendation.

ALAN GREENBERG: May I suggest we add to this list, that we request from compliance, details of how they secure and otherwise treat appropriately registrant data when it is under their control? The resellers we're already decided that we're recommending that ICANN put into the RAA a requirement that registrars and their resellers use whatever the right words were. Lisa looks like she wants to say something.

CHRIS DISSPAIN: I'm not on the recommendation but you understand that recommending a change to the registrar agreement, all you're merely

doing is saying to the Board, go talk to the registrars about this because the Board can't force that.

ALAN GREENBERG:

Of course, we understand that. Since it is related to WHOIS it also is subject to a PDP, the Board could initiate, you can't predict the outcome. This is one where you probably would have to use that path instead of the other one. Having added the new item, which I can't see there because it isn't there but it is in someone's notes, may we go forward? I'll ask Alice to review what else we have to do this afternoon, so we can try to decide how to divide up the time.

ALICE JANSEN:

We do have a parking lot but the parking lot is already full. We do need to go over the Implementation Assessment Framework that was defined back in October and ensure that what we have right now in terms of findings, assessments, matches what you had in your framework that you adopted.

Then we also need to go back to the meeting objective that was established regarding resourcing of subgroups, strategic changes needed, what changes are needed there, so that's something that we need to get done. Then we'd like to spend some time on the Draft Report Template, the workplan as well as confirm all the discussions, agreements and action items that were reached at this meeting.

ALAN GREENBERG:

Alright. May I suggest we do the item of -- since we've spent a lot of time talking about the overall work we're doing on different subgroups, spend a little bit of time looking at whether we are comfortable with the current subgroup structure. Comfort with overall level of work that we are likely to have good recommendations in the June timeframe and start being able to go forward and publish an interim report.

I'll give my quick summary. I think right now in most cases we're doing okay. Deadlines have proven quite effective in getting ready for this meeting and I think we'll probable exercise that concept again. The groups that I feel less comfortable with are the law enforcement and the ones that Volker has been nominally running or our repertoire Susan has subbed for and in the case of law enforcement Catherin.

I think we really need ask these people, do they believe the problems that they've been having in focusing on this are going to continue? In which case I think we have to take some level of remedial action, if only to formally replace the repertoire or if they believe this was a transient thing. It's a bit too late I think to recruit new members to the team, but I think we have to allocate the work reasonably so we're not completely overwhelming a couple of innocent subjects who happened to be on the wrong team and therefore get all the work.

I don't know if there's any others teams that anyone else feels less comfortable with. Certainly, compliance is one that has still a lot of work to do but I have complete confidence in Susan to somehow find the time to do it.

LISA PHIFER: I just wondered if it would help as a backdrop to try to think about where resources need to be shifted, would be to first just run through the list and which groups have significant remaining work. I think you've just identified law enforcement needs and privacy proxy, I'm not sure about common interface. Common interface seems like you've gotten close to the end on that. Strategic priority, Catherin I know you've just received a bunch of briefing material, so there's still significant work there, correct?

CATHRIN BAUER-BULST: Yes, there is still significant work there, especially because I don't think that I would like to request that we do another round with this. I'm not sure the briefing materials actually address the questions that we have in the level of detail that we would need to be able actually answer them. Indeed, there's a bit.

I think on this one the sort of thinking behind it has been done and it's just a matter of getting the evidence to either prove or disprove our assumption and then integrating that into the report. I feel fairly comfortable with that one and I think it won't take that much more work, other than to review further feedback to our questions.

LISA PHIFER: If I'm mentally changing this slide that's in front of us, we have significant work remaining behind recommendation 1, 10, the law enforcement group, being a little bit more methodical about the single WHOIS policy, it sounded yesterday we were pretty close to being done on that one. Outreach, I know there's drafting to be done for everyone

but in terms of significant research and formulation of findings, probably close to done.

Compliance, we've got a tick mark on that, meaning there's significant work yet to be done in terms of findings and formulating recommendations. IDN's, we're pretty close done with the acceptance of writing up the recommendations we've discussed. Annual reports, Lili, how do you feel about that one? I know you have some drafting around the recommendations but do you feel like you're done the research and findings?

LILI SUN:

For the plan and annual report, I believe I went through all the materials and the conclusions during the presentation on the first day. I believe you all heard about the draft conclusions and we all agreed on that. I assumed so.

LISA PHIFER:

Anything New, I think we've talked through the list and decided that for the most part the findings are there and they need to be reflected in reports of other groups or a general recommendation. Consumer trust, Erika, I think you still have some findings that you want to reduce, based on the output of all the other teams, correct?

ERIKA MANN:

Yup.

LISA PHIFER: Then safeguarding data, we've just finished talking about but Alan, you want to ask some additional questions. Sounds like you're still in the producing findings stage.

ALAN GREENBERG: If you now look at it, we now have a number of people who either are leading a team where we have said there are no outputs, no further recommendations and essentially, we're saying the job is done and that's Carlton, Dmitry and Stephanie. The question is, are there other places that they can put some focus on, given although there's still some drafting to be done, it's relatively light weight work compared to other things. Each of them are members of other groups but is that sufficient to keep people busy or do we need to help redeploy?

I'll point out that in almost all the cases, the subgroup leader has done the bulk of the work and they passed things off against the rest of the subgroup for comments and I think that's a nature way this works. I'm not perturbed by that but I just want to make sure if we have people have extra time on their hands at this point, that we can redeploy it.

STEPHANIE PERRIN: I just wanted to raise a couple of issues. Number one I have done very little, I've been super busy on GDPR, so I have only monitored from a distance the other working groups and Susan did the bulk of the work on the Anything New, so really I haven't done much. I would understand if you wanted to tag me to do some more work. Let's pick something I know something about so that it's not overloaded because

there's still going to be a ton of GDPR work for the next little while that will keep me busy.

The second thing is, I understand that it's too late to replace Volker and I don't want to replace Volker but I'm deeply concerned that most of our recommendations have implication for contracted parties and we have no contracted party rep here when Volker's not here. Like me, Volker is going to be running like a jack rabbit, trying to keep up with GDPR stuff for the next little while because you know what's about to hit the were as they say, that's a Canadian expression, I trust everybody understands that. The you know what is about it hit the were, it means -- no? The fan.

ALAN GREENBERG: I know what you're talking but I've never heard the expression.

STEPHANIE PERRIN: Maybe it's a farming expression, could be. Okay, my sheep one, we'll talk later.

ALAN GREENBERG: Perhaps after the recording has stopped.

STEPHANIE PERRIN: Possibly yes. Well, in other words, I wonder if we couldn't get a backup for Volker, that would come in and at least register a contracted party response if not do more work? Because really, we're just asking for

trouble, if we come up with a whole pile of things, I can see quite a few right now, that they're going to go, I can hear Michele right now and you know what he's going to say. I think that would be prudent, otherwise we'll have a whole lot of comments coming in, saying what were you smoking.

LISA PHIFER:

Because the review teams have a fairly formal way in which their seated, I think what you're suggesting is that the GNSO would nominate someone to take Volker's role in providing that review, is that correct?

STEPHANIE PERRIN:

Or naming an alternate, so that when he couldn't be there, they would be represented as opposed to not represented.

ALAN GREENBERG:

Taking off my review team chair and putting on my ALAC chair hat, Lisa is correct. There is no concept of an alternate. We could ask the GNSO to identify another person, particularly a contract party and then get approval of all seven AC/SO chairs to seat that person at this late date. It's not a process I'd really think I'd want to enter into however, to be honest. Can we hear from the other GNSO people on this group?

SUSAN KAWAGUCHI

I think there's a difference in perception of who makes a decision on who's on review teams because I don't think the SO's that we would have to go back to the SO's and AC's and ask their permission. Let me

finish. No, I still, I don't agree at all with. Let me start, we can argue about that later. I chair the GNSO Standing Selection Committee that makes the decision to recommend to the GNSO Council, the nomination of the members on a review team and we have a very straight forward process, that's all documented in a charter and we're just finalizing the charter after the first review of it and almost a year's experience of selecting members, obviously I did not participate in this selection.

I recused myself because I was a candidate, so we put forward for candidates, we always put forward seven but we were successful in getting the other SO's and AC's to allow us to seat a forth but the chairs do not in my opinion, make the decision on the candidates that the GNSO bring forward to the pool, to create a review team. There's no discussion of those candidates and whether or not they're valid candidates or not, this is the GNSO's selections for these three.

We have these three guaranteed seats, the forth seat, yes. If you want to consider Volker that forth seat, then that might be up for discussions by the SO and AC chairs. I would be absolutely opposed, as a review team, to go out and ask permission to assist in a GNSO seat in this review team, to ask their permission for anything. I think that's a wrong precedence set and incorrect.

What we've also envision, though it's not really in our charter for the GNSO Standing Selection Committee, is that we do a review of review team or any nominations that we've done and if there's a problem where someone thinks they could fulfill the role when they applied but in actuality it doesn't look like that happens, then that's an opportunity

to go back to the GNSO Council for our seats only and make a decision at the GNSO Council level.

This is really, in my opinion, not a review team issue completely, it's more of a GNSO Council issue. If we want to -- I think as a review team, we don't have an alternate position envisioned maybe but I do think if Volker, along with the GNSO Council, decides this is something he needs to participate as a GNSO member, then that is something we could put to the rest of the review and see if it's acceptable that not to replace Volker but to allow assistance and someone else -- anybody can observe this, our work, that they could observe and then give recommendations to Volker to participate.

ALAN GREENBERG:

Let me give you another opinion. The bylaws call for a review up to three members to be essentially guaranteed seats on a review team and up to seven should there be enough room within the overall size and should the selectors, who are the seven AC/SO chairs choose. The bylaws do not say that the AC/SO designates which three to put. However, this group of chairs, since the bylaws have taken effect, have chosen to let the ccNSO designate which three they want as their preferred members.

We also allowed them select four, five and six in that order should there be more people allowed. If a member resigns, again, if you looked at the draft operating standards, MSSl put together a hugely convoluted process by which to get approval for those. Uniformly everyone said go for it, go away, the practice it's been used since review teams were first

convened with ATRT1 is if there's a resignation and remember, the first review teams, the composition, the balance between AC's and SO's with selected essentially decided in private. You may have gotten one, someone else may gotten four.

However, the practice has always been, the ccNSO that selected the person that is leaving can replace that person and the selectors have always passively agreed to that. Certainly, the current AC/SO chairs have done the same thing when we have had resignations in review teams in the past. Adding somebody becomes a different question and we've gone through that process over the last three, four months with SSR2 and we have come up with an established practice, that an ccNSO can nominate someone and it's up to the chairs to decided whether to seat them or not. Again, that's not a replacement for someone but a new one. We are talking about adding.

CATHRIN BAUER-BULST:

Just to add that we have a procedure for this and indeed it for the relevant community to decide on the replacement and indeed on the removal if we expressed dissatisfaction with the work of any review member. If we start adding people, I know from the GAC I'm going to get the question of whether we then have a fourth GAC member to be added. The reason that are three of each is also a question of proportionality and just the fact that this would be an issue.

On the way that the GNSO selects or the GAC selects, there's rules that apply from the bylaws but beyond that it is up to every community to organize how they want to select and put forward their members and if

the GNSO has a specific process for that, then we're going to have to respect that. I think what applies to us and what we can control is what we've agreed on in our own terms of reference and that's what we're bound by.

ALAN GREENBERG: The GNSO selects who they want to put forward, the decision to seat or not, especially if it's over three, is up to the selectors. That's in the bylaws, we can't violate them.

CATHRIN BAUER-BULST: Yes, if we're adding new people that maybe a different issue but if we are doing this alternate thing or replacing Volker than this is the procedure that applies.

ALAN GREENBERG: Replacing, I'm not disagreeing. Adding and alternate is not a concept we have right now. Why don't we first talk to Volker? Which is all I was suggesting. I was suggesting we elect him or we tell him he has to leave. I was suggesting as a first pass we ask, is he likely to put the time into it.

CATHRIN BAUER-BULST: This is totally designed to be on the record, dejection just seems like it's associated with some sort of space capsule and I thought that sounded rather exciting, I couldn't help myself.

ALAN GREENBERG: Removal I believe is the word in the terms of reference. I certainly wasn't suggesting that we attempt a removal, I was suggesting we talk to him first and find out if he's predicting he's going to be able do some work with us.

STEPHANIE PERRIN: I was neither criticizing him nor suggestion ejection or removal but just because there is no concept of an alternate doesn't mean we could not think of one. Even just somebody to sit in the chair and notice. I think we are singularly without representation of the folks are going to be hit the most with our recommendations and I just feel it's a little worrisome.

ALAN GREENBERG: Just to be clear, anyone can observe and I believe it is within the prerogative or the chair of the meeting to give someone speaking rights should they desire. I just made up the rule is anyone objecting? I don't think it's in our terms of reference. It says I'm not allowed to give someone speaking rights? Anyone here object if we had another contracted party as an observer and we occasionally gave them speaking rights?

CATHRIN BAUER-BULST: What we say in the terms of reference is that -- there's a separate room for observers and they can directly comment to a virtual meetings but in the in person meetings may attend to share their input and questions

with the review team as appropriate and they can also at any point email input to us.

That's the way that we've set out for the observes to contribute to our work and I think that's perfectly reasonable. If the GNSO or any other contracted party, organization wants to add an observer who can provide in case Volker is unable to, then there's ways that that person could do it without us having to change our rules.

ALAN GREENBERG:

Chris, do you believe Board would object if we wanted to make a minor to the terms of reference to allow the kind of things we're talking about?

CHRIS DISSPAIN:

You might find this hard to believe but the Board probably not spending much of it's time reading your terms of reference. No, the Board would not object. Let me just say however and I've got no problem with it at all and I don't know if you can do this.

The point of an alternate is that you have someone who is there the whole time and who doesn't speak unless the other person is not there. That's not the same thing and I don't know whether you can do that or not but whichever way around it, it seems to make perfect sense of this review team should be flexible, when there's a problem fill it in.

ALAN GREENBERG: I think the alternate would start conflicting with the bylaws, where this is operational.

SUSAN KAWAGUCHI I absolutely disagree because and I don't want to use the name on the recording but there are those that are observers that would love to interact and speak up and so we're in some ways if it's a trusted observer, that's one thing but observers in general we may have problems with. I don't want to open that door and I think that's why this was read in this way. Even just having an observer was my thought on a fly, is problematic because I don't think that wording also pertains to the subgroups and participating observers are not on our subgroup calls.

CHRIS DISSPAIN: They could be.

UNKNOWN SPEAKER: We do have an observer on one of the subgroups. There's a way for them to apply.

ALAN GREENBERG: May I suggest we talk to Volker first and then take this offline.

SUSAN KAWAGUCHI: But let's not make any assumptions after we talk to Volker.

CHRIS DISSPAIN: May I ask a question. I appreciate everything you said about Volker, just as a general principle and I acknowledge completely about what you said observers, totally get it and agree. Is there anything to stop us from changing the modus operandi that allows us to have somebody as an alternative?

ALAN GREENBERG: That's a change of our rules and procedure, which is what I asked you and you did not foresee a problem.

CHRIS DISSPAIN: I don't see any problem. I think where the conversation got confusing is talking about allowing the observer to speak and I understand what Susan's issue with that. I'm talking about something different, which would be the change of rules so that Volker or whoever for that matter it doesn't have to be Volker, can in fact utilize the services of an alternate.

ALAN GREENBERG: My only concern is that starts creeping into the concept of what was described in the bylaws.

CATHRIN BAUER-BULST: I agree and I think this would something that I would certainly have to take back to the GAC because in essence you would adding another

resource who would be contributing to all the work and the fact that maybe they take turns doesn't really make much difference in practice, so we're essentially adding someone and that's a different situation. I don't want to be difficult on this, the GAC tends to be a bit more formalistic about this, it's just something I would need to discuss or we would need to discuss as the delegates from the GAC.

ALAN GREENBERG:

But I will point out that the GAC selected a number of people, I believe we accepted all of them. We explicitly gave the GNSO four because this is a GNSO related topic and that was done. The selectors would have to decide to agree to do that if we went past that.

CHRIS DISSPAIN:

Is there anything we could build upon the fact that CC's have put no one and therefore there are spare seats? Is there anything we can do with that?

ALAN GREENBERG:

There's plenty of spare seats, that's not the problem.

CHRIS DISSPAIN:

I thought there was an understanding in the bylaws that once you get past a certain point those seats could be filled?

ALAN GREENBERG: If the selectors chose to take other endorsed candidates and put them into it, yes.

CHRIS DISSPAIN: So, there are ways of doing it then, okay.

SUSAN KAWAGUCHI: And I keep objecting to Alan's portrayal of how this works in that those first three seats, there cannot be in my opinion, in my reading of this, the bylaws and anything associated, that the SO and AC chairs can not object to the members for those first three seats, right, so you do not have a right as SO and AC chair to say, GNSO we don't like your three candidates, we will not seat them.

ALAN GREENBERG: In fact, we do but we have chosen not to do that.

SUSAN KAWAGUCHI: That I categorically disagree and I want it on record that is not accurate in my opinion and that if we need to get a separate -- if we face this situation, if we need to get a separate, I don't know who come back and assess that, but you're right, let me just finish.

We need to talk Volker but that forth candidate, if Volker was our forth recommendation, then you may have a right to, if we decided to replace him, which we're not talking that, then SO AC chairs would have a right

to weigh in on that. If he's not our forth, then there is nothing that SO AC chairs have to do.

ALAN GREENBERG: If he is one of the three, according to the bylaws, the ACSO -- no, no, the bylaws are not specific. The chairs have chosen at this point and there's only been one set of chairs under these bylaws, effectively one set of chairs, have said yes, we are going to ask each AC and SO to prioritize their people and we are not going to question the first three, we're going to accept them blindly. That is the practice. I can't commit to the practice of the next chairs doing that but suspect they would.

SUSAN KAWAGUCHI: Once again, I don't agree and so, just because you as chair of this review team say that and as chair of ALAC, I'm opposing that.

ALAN GREENBERG: Giving the view of how the other chairs have approached this.

SUSAN KAWAGUCHI: See, and I can't accept that in the recording in that either.

ALAN GREENBERG: You don't have to. We have Stephanie and then Lisa.

STEPHANIE PERRIN: I'll let Lisa go first because she probably knows the rules.

LISA PHIFER: I certainly read them and I'm not going to offer an interpretation. I just wanted to raise the point that although we've been talking Volker explicitly, that came up in the context of resourcing and we in fact two review team members that have been unable to participate on a regular basis because of other reasons, the other is Thomas and so I think if we're going to Volker and asking him if that situation will continue for him, we also need to go to Thomas and determine whether he can continue to participate as well.

ALAN GREENBERG: I believe that is what I suggested several hours ago.

STEPHANIE PERRIN: I am no expert on the rules, I like to delegate to somebody else our constituency. Fortunately, we have experts and I believe we support Susan's position on this, that is certainly our interpretation and we fight hard for it. But I do believe that Volker was our forth candidate in this particular situation, so we might have a problem. It maybe clouded by that fact that Susan recused herself from the deliberation and -- no. Well, in terms of the numbering of the candidates.

CATHRIN BAUER-BULST: Putting on my lawyer hat, the section 4.6AIV of the bylaws describes exactly this situation, it basically says, any supporting organization or advisory committee nominating at least one, two or three perspective review team members shall be entitled to have those one, two or three

nominees selected as members to the review team so long as the nominees meet any applicable criteria for service on the team. The actual review of the candidates only kicks for any additional candidates.

ALAN GREENBERG: I think you need read the next section too though.

CHRIS DISSPAIN: What number was that Cathrin, sorry?

CATHRIN BAUER-BULST: 4.6AiV.

CHRIS DISSPAIN: Don't you love bylaws.

CATHRIN BAUER-BULST: You can use a search engine of your choice and put perspective review team members. The next section says, if any supporting organization advisory committee has not nominated at least three perspective review team members, the chairs of the SO/AC's shall be responsible for the determination of whether all 21 seats shall be filled. That doesn't really change the thing that I read before.

ALAN GREENBERG: The reason for interpretation is, if they name one, two or three, then they get seated and it's silent on what happens, on who get's seated if

they name four. In any case, I don't think it's use that would decided if it's going to the bylaws we're going to go to ICANN legal and ask for a reading of this. I don't think there's any reason we need to go to that stage. Let's find out what we need to do.

CATHRIN BAUER-BULST: Sorry, it says nominating at least one, two or three perspectives, so the one, two or three nominees, even if there's more.

CHRIS DISSPAIN: Says at least one, two or three and the only point -- so now I have my lawyers hat firmly screwed on my head, the only point that what you read and I don't have it in front of me right now, is you said something about applicable criteria, I assume there's applicable criteria preset prior to the call for the people and I suppose you could argue that someone needs to judge that they meet those applicable criteria and if that were the case of making that judgment call, then the question would become, who would be the judge of that? Would that be the chairs or would that be the nominating bodies?

But I think and I'm not sure that there's any benefit in this discussion as it's past it's point now but I do think that is -- it's pretty clear to me that the nominating organization get say and that if you're filling empty seats then there's some kind of way that the chairs get to sort that out.

LISA PHIFER: I just wanted to ask for clarification on the action item.

ALAN GREENBERG: The action item, the chair will contact Thomas and Volker and ask, do they believe will be able to focus sufficient effort into this process going forward.

CHRIS DISSPAIN: Sorry to be a pain but I hate doing things when I don't already know what the answer might be. What would we do if either of them said no? Are we clear that we at least have a process that we can use? We are, okay.

ALAN GREENBERG: If either of them say, no I will not put any effort into it or enough effort, the next reasonable questions is, are you willing to resign? If the answer is yes, then the established process is the AC SO that designated them name a replacement and that person will be seated. That has been the process, that's well established. If the person says no, then we have an interesting situation we'll have to deal with.

STEPHANIE PERRIN: Except that I raised the whole issue hours ago to see if we could come up with a more flexible alternative arrangement given the rather extraordinary circumstances that we're in and I still haven't heard a reason why we couldn't have for instance, an alternate that was authorized by the nominating group, from their SO/AC, to speak when the other candidate wasn't there.

That seems eminently sane or if not at least communicate by email but some arrangement where if we really had the question for instance, well I wonder what Thomas would say if he were here or I wonder what contracted parties are going to say this, we could actually ask.

ALAN GREENBERG:

Wearing a number of my different hats, I suggested we could make a minor change to the terms of reference which would allow us to do that. We heard from the Board Liaison, that he didn't think this would be an issue with the Board, so I think we have a mechanism, I do believe we would have to word it carefully but I think we have enough wordsmiths that could do that.

STEPHANIE PERRIN:

So, then the upshot of the recommendation as Lisa wanted clarification, is that we ask and then suggest readiness to consider alternatives such as we have just described. Thanks.

ALICE JANSEN:

Thank you, Alan. I think Stephanie is uncomfortable with the fact that they're not here to speak their minds right, so we do have this long document of all the agreements you reached during this meeting, so I suggest giving them a window of opportunity to raise any concerns and past that window it will considered as...

ALAN GREENBERG: That doesn't address the kind of things where we said we would like ask Volker a question but he's not here to answer it or various things like that.

ALICE JANSEN: If we're worried about moving on.

ALAN GREENBERG: We will survive. We will try to find a way moving forward that's affective and doesn't impede our progress and doesn't disenfranchise anyone. I don't pretend to know where are in the agenda, will one of our capable members tell us. One of our capable staff member said it's time for a break. Technically we have a break at 3:15, it is 2:55 right now, I'm willing to take a break.

ALICE JANSEN: Just to close on this discussion, I think we were asking Dmitry, Stephanie and --

ALAN GREENBERG: Thank you, Alice for bringing us back on track. I think I heard Stephanie say she'd be willing to work on other areas, noting that she's still going to be bloody busy with GDPR but it would be nice if the other area she worked was something was either some knowledge or at least a little bit of interest in. I'm assuming Carlton and Dmitry will say the same thing. The question is, what are other areas do we need some extra resources on?

STEPHANIE PERRIN: Let make it easy for you. Here's the areas where I have some expertise. Risk Management, Consumer and Law Enforcement, all with my own particular bent of course but that's what you get.

ALAN GREENBERG: If any of those groups would like to bid on Stephanie please do so offline.

LILI SUN: I notice for the data accuracy we marked as close to done, so I would take that all the review team members, you more or less accept the findings or the draft conclusions I have reflected in the report, right?

ALAN GREENBERG: I'll certainly answer, you have enough conclusions that I need to go home read them carefully and look at the data and see if indeed agree or not and I think all of us have to do that. I don't feel comfortable saying yes. The amount of data that was presented, which I perhaps should have looked at ahead of time but didn't, given that I believe I'm on the team, puts me in an awkward position, I suspect others. If we end up saying we disagree with this conclusion, then we know where to find you and we'll talk.

LILI SUN: Yes, so maybe at this stage I won't have the intention to put the close to done. We didn't even accept the conclusions yet.

ALAN GREENBERG: Then we can change that to close to done, subject to final review. Let me give you an example, when you talked about the reminder notice and said since you did not see any reports since 2004, you concluded there might be a problem and several of us said, we believe it is being done number one and number two, it is being audited on a regular basis. I just don't have the comfort level to look at the other issues at that same level because I'm just not as familiar with them.

LILI SUN: Actually, as I said this morning, I did some research yesterday, so I have some questions that have been solved, so I will reflect in the new draft and I will share the new draft as soon as possible to all our review team members.

ALAN GREENBERG: Thank you.

ALICE JANSEN: Are we looking for new repertoires then for which groups? For law enforcement and privacy proxy?

ALAN GREENBERG: First we'll consult with those two repertoires and get feedback from them.

SUSAN KAWAGUCHI: In the meantime, I'm fine continuing on privacy proxy to help assist Volker.

CATHRIN BAUER-BULST: Just to say that I would suggest doing the same thing on the law enforcement, so while we can leave Thomas in his official role as repertoire I'm a member so I can just participate and I think might be nicer in view of the fact that they probably both feel badly about not being able to participate and the label doesn't really matter so much. I would certainly support that we reach out to them but that we just leave the status as is for now.

ALAN GREENBERG: I'm not worried, I certainly don't want to make people feel bad but I think we need to set our own expectations for are we expecting them or do they in fact significant issues so the commitment is unrealistic.

STEPHANIE PERRIN: I just wanted you to know that I think I'm already on the privacy proxy and I have done absolutely zero other than watch everything. Possibly if I helped out that might help.

ALICE JANSEN: Any changes in resourcing, additional ones that you're foreseeing now?

ALAN GREENBERG: At this point, no formal changes. We have two repertoires I want to talk to. We have Stephanie already having volunteered to up the annuity in either group she's participating in or other ones and I will talk to Carlton and Dmitry. If there are other areas and you think you can contribute that needs significant work then let us know which ones.

DMITRY BELYAVSKY: I think I can be useful privacy proxy if necessary.

ALAN GREENBERG: Break time? Alice has let us have a break. We'll be back in 15 minutes. We are restarting the last half, half day, last quarter day of the three day meeting of the RDS WHOIS2 Review Team in Brussels, it is on the 18th of April and we are now reconvening for the final parts of our agenda. I will turn it over I think to Alice to at least which part of the agenda we're doing.

ALICE JANSEN: Thank you, Alan. We briefly want to go over the implementation assessment framework. Susan, actually since you were the one that works on this would you like to remind the team real quick what was envisioned through this framework? That's actually the framework we use live, the whole framework is in the slides.

SUSAN KAWAGUCHI:

We decided that we needed some framework to assess each of the areas we were looking for implantation and especially looking at effectiveness and to see if it's been successful and the intended outcomes and everything. What I did was, simply went out to the internet and Googled and came up with a couple of different sites that had good information and really copy and pasted a framework that we can walk through and ask ourselves questions. To identify issues, frame the issue, audit outcomes and impacts.

Some of the things we could do in auditing is sampling of the data, metrics, monitoring, trend analysis and determine information gaps and I think we've all done that in all of our research so far. The big question to ask is, determine whether changes in outcomes are a result of the policy or maybe they're just a result of some other impact. Then develop recommendations and good practices based on all of that.

That's about all I remember. I'm sure you guys could all read this. Identify the issue, the degree to which WHOIS objective identified by stakeholder have been achieved in the extent to which targeted by the first RT have been solved. I think in our discussions we've done this pretty much. Frame issue, focus on the goals of the first RT recommendations, what problems they were trying to address. Ability to implement the policy and actual results of the policy.

We may need with some of the information we've reviewed this meeting, to go back and ask those, sort of frame the issue again. At least in the compliance subgroup work some of our discussion has made

me rethink something, especially Lili's work on the data accuracy and how that has impacted the compliance issue because she definitely read the same things and had a different perception, which is why we've got lots of people here.

One of the issues that the first review pointed out, it was difficult to know what the WHOIS policy was and I think we had pretty good discussion of that. A quote from the review team report, to the extent to which ICANN existing policy and implementation are affective in meeting stakeholder needs and we all know policies that are like the WHOIS conflict, probably do not meet stakeholder needs. These are some of the audit outcomes and impacts and questions we could ask. Does WHOIS meet your needs for accurate data and why does WHOIS meet your needs for privacy and why?

Lots of questions. Then again, the question of determine whether changes and outcome are a result of the policy and then develop recommendations.

ALAN GREENBERG:

Struck me, one of the points you said to look at was with the outcome of the result of the recommendation or just sort of blind luck and it strikes me that most of ours request specific things to happen and they would likely have happened afterwards. The data accuracy one is one of the different ones, would things have gotten or worse if we hadn't been measuring it? Probably but there's no real way to know and it is interesting, especially in looking at the cases where the numbers seem to get worse are we were looking at them.

I'm just trying to understand, what is the dynamic that is going on that is causing that? I'm not sure we'll be able to determine that but it raises some interesting questions. I think on the vast majority of the ones we're looking at, the last group asked something to be done, it was done and would not likely have happened otherwise. Perhaps some other situation could have been construed that would have caused it but the cause and effect is relatively clear. Anything further on this?

LISA PHIFER:

I suggested that we revisit this before the end of the meeting and the reason I suggest that was that I think each subgroup has focused on it's task and done its research and formulated findings and to some extent problems and recommendations but it may be helpful now having done that work to step back, looking at the framework, thinking were there steps we skipped in determining how effective ICANN was at implementing the first recommendation.

Your example is a good one, having researched some changes that occurred, stepping back and thinking, was this recommendation actually the cause of those changes or in fact were there other factors that were involved in reaching the point where we are today. I guess in summary, this is sort of a checklist that we can now apply to see whether we've approached assessing in the same way across all subgroups, since everyone did their work somewhat independently, to make sure that we've covered all the bases.

ALAN GREENBERG: I guess I see it more a check list, are there any steps there that were really applicable in my case that we need cover because some of them just don't fit and we're not in a make work exercise but we are looking to make sure that we've been sufficiently rigorous and haven't skipped a path that we should have been taking. Some circles you skip steps and get to the right answer you get an award for it, in other places you get penalized for it. Further comments? To our masters of ceremony.

ALICE JANSEN: Thank you, Alan. The next item on the agenda is the Work Plan Review. As you call for from day one we had a refresher on the key milestones that are on your roadmap to define the report, so you've made tremendous progress in Brussels and the first question -- the first question I'm going to ask you is, is it feasible for all the subgroups to incorporate edits and then define Brussels by May 24th?

ALAN GREENBERG: May 24th is what, five, six weeks? Five weeks from now. Erika has to have her part done by next Tuesday, the rest of us have five weeks.

ALICE JANSEN: There's nothing stopping you from having that deadline earlier as well if you wish.

ALAN GREENBERG: I think that's what the word means by but we know this group, 2359 on the 24th. Now we already have someone push the limit. I think we've

determined the two and half days is the longest practical meeting you can have before people start getting silly. Subject to people putting it off until the 22nd and the finding out they have three days' worth of work to do, I think that's a reasonable target. How we try to encourage people actually get it done well before the target, without lying to them about what the target is, see you already blew it Alice. If you'd had said the 18th of May.

DMITRY BELYAVSKY: Sometimes gentle reminders help but not always.

ALAN GREENBERG: I don't know, every time someone uses the term gentle -- I've instructed my staff not to give me any gentle reminders, I've told them, give me many reminders and start getting nasty with me if necessary but calling them gentle reminders doesn't help in my mind. Lisa, please.

LISA PHIFER: I have question, it's actually for Alice and Jean-Baptiste. I know that you plan to also present the template for the Final Report, not Final Report, the Draft Report but the report of the review team as opposed to reports of subgroups but I don't see in this list of milestones any place that we bring the subgroup reports back into the full review team report, I assume that third milestone is that draft report for public comment is in fact a review team report. Don't we have an intermediate step here, where subgroups update their individual findings?

ALICE JANSEN: That's the first milestone, 24th of May, subgroups incorporate edits as defined in Brussels.

LISA PHIFER: Okay but then when would the consolidated report be available for the team to look at as opposed to agreeing it ready to go out to the community?

ALICE JANSEN: Just to clarify Lisa, you're asking if the subgroup reports that need to go out to the community?

LISA PHIFER: No, I'm asking -- I feel like there's a step missing, that we have subgroup reports and then we have a target for approving the consolidated report to go public comment and that there's a step in between, which is that the team gets to see the consolidated report and review it and possibly refine before it goes for public comment. Does that make sense?

ALICE JANSEN: Right, so I think this is actually in step two, which was ICANN 62, the group for the work plan was suppose to meet in ICANN 62 to make that happen. That was my second question, since that's not going to happen, when do you want to have that meeting?

ALAN GREENBERG: We are not meeting formally in Panama. We are doing an engagement session. There will be certainly a significant percentage of the review team that will be in Panama.

UNKNOWN SPEAKER: Can we then do a meeting on the sidelines with remote participation?

ALAN GREENBERG: We already discussed that several meetings ago and it didn't look like we'd be able to find a time where we could do that. I believe we ended up saying we should probably plan on meeting sometime in July. The question was, is July going to be problematic for people due to vacations or other commitments.

ERIKA MANN: For me probably would be possible only in the US but I mean that's maybe true for many. Canada is fine too.

ALAN GREENBERG: Clearly it has to be done sometime in the July, August timeframe. We are talking about a face to face meeting, essentially to finalize our recommendations. I suspect we're talking about a two-day meeting.

CHRIS DISSPAIN: August is a disaster area in Europe of course. It's not that that's a reason not to do it, I'm just saying it's a disaster area in Europe. Everyone's on holiday, it's an old fashion they do.

ALAN GREENBERG: When I mentioned that, I was told it is an urban myth that people take the whole month.

CHRIS DISSPAIN: I didn't say they take the whole month off, that is an urban myth but I think people like Catherin I imagine would take the whole month.

ALAN GREENBERG: I know in a number of countries a whole month is a rather typical.

CHRIS DISSPAIN: Look, July sounds like a great time to be in -- by the time I get to Phoenix.

ALICE JANSEN: We'll take an action item to go to meetings team and ask what availabilities they have in July. To come back to the destination question, I think we may want to be considerate of Visa issues for the US as well in this.

ALAN GREENBERG: Of the people who are not here, we know Carlton and Thomas do not have a problem with a US Visa, I understand. Volker I presume doesn't. Dmitry, you have said in the past you might have a problem with a US Visa or you know you'll have a problem?

DMITRY BELYAVSKY: I know I have a problem with US Visa.

ALAN GREENBERG: Okay, what about Canada?

DMITRY BELYAVSKY: Don't know yet, maybe. It depends on my government more than me.

CHRIS DISSPAIN: I think that's an application responsibility to make sure.

ALAN GREENBERG: Can I ask the reason why North America is possible but Europe is not, just timing?

ERIKA MANN: I can do it but then I have to fly millions of time back and forward which is fine.

ALAN GREENBERG: Someone's going to have to fly back and forth. You know where people are from and passports people travel on, if we can certainly find a place that everyone can actually get to, that would be nice, more than nice. Mexico in July, no you don't want to do that either. Stephanie's hand is up.

STEPHANIE PERRIN: I've always wondered whether Joseph has some kind of a calculator to figure out where the cheapest place to have a meeting is? Because in the light of -- not to sound like I'm on the GNSO Budget Council and snipping away at things but we should try and figure what's cheap right.

CHRIS DISSPAIN: LA and/or Brussels are generally speaking cheaper because there is no need to ship any equipment anywhere, it's all there, some staff members are there anyway. You could do Washington. DC, LA or Brussels are the cheapest for ICANN in any way because of all the stuff that you need.

STEPHANIE PERRIN: Sadly, no one in their right mind goes to Washington in August though.

CHRIS DISSPAIN: I completely agree.

STEPHANIE PERRIN: I'd sooner go to Singapore.

CHRIS DISSPAIN: Why don't we just let Alice and the team work on and if we end up coming back to Brussels we end up coming back to Brussels such is life.

-
- ALICE JANSEN: We'll speak to our meetings team and then get back to you on this one.
- CATHRIN BAUER-BULST: Not significant point on this but indeed August would extremely difficult for me because for very personally reasons but my family is at the point of limit -- it has reached a limit as to what they will accept in terms of my absence from family things and we have decided to take the month of August off, so I really want to take it off and not be there.
- July, is really difficult month in the Commission, as everybody goes in August, everything needs to be finished by July, especially this year because next year the Parliament terms ends. Just to warn you, that I will do my very, very best but there some meetings that are beyond my control, so I might not be able to make it in either of those months.
- ALAN GREENBERG: But Brussels makes it that much easier.
- CATHRIN BAUER-BULST: The fact that we've had these two review meetings here has made ICANN infinitely more popular in my family.
- CHRIS DISSPAIN: That was across the cunning plan along. We're going to take down the European Commission one staff member at a time.

STEPHANIE PERRIN: Here's a hypothetical folks. What happens if we somehow miss the July date and we don't get our draft report out till September? When Cathrin will be back and Brussels will be available, what would that do to our deadlines?

ALICE JANSEN: Actually, it would impact because what we go into in the later part of this review is a series of public comment, factoring in public comment, doing outreach and so staff could show you what it would look like on a work plan but it would most likely defer the end date for a quarter.

ALAN GREENBERG: Can you explain, slipping by a month, should be able to slip by a month. Why would that slip a quarter?

ALICE JANSEN: A holiday. In the month of December cunningly ended the timeline before the holidays begin in December but once you miss that you lose another monthish, then you lose two months.

ERIKA MANN: I wonder, couldn't we do indeed in September, beginning of September, do the approval of the draft report and start immediately the public comment period when we sit here. How much time would we need between the approval and the public comment phase before it starts? How much time would we need in between? Or is the public comment which you have, the public comment period is starting on the 7th of

August and it's ending in October, so we are planning two months public comment period?

ALAN GREENBERG:

We're required to do 40 days for things like review teams, we try to do longer. Plus, it takes some time for staff review, staff summary of the responses. There's no question that if we don't make the July meeting, we will slip. Whether that's a terminal problem and slipping to delivering the report in the end of January, February or something like that, I don't think anyone's going to die because of it. Let's try to see if we can meet.

Cathrin, do you feel comfortable that if we come up with a date you'll be able to commit to it or might you cancel out at the last moment because of work schedules? I'm putting you on the spot I know.

CATHRIN BAUER-BULST:

I just cannot say. Let's just say that for Puerto Rico, I was supposed to leave on a Saturday and on Thursday my hierarchy asked me to cancel and I just refused but there's not some many times I can do that. Just to tell you about the sort of short term planning that we sometime have.

What I will have is from a negotiation, I will have the dates for the working group meeting, that I should be able to project in advance and those are really the very key bits. I commit to doing my very best to be there. I just want to expectations now because it's traditionally quite difficult that month.

STEPHANIE PERRIN: Is September any better after being out work?

ALAN GREENBERG: Is a two-day meeting a good guesstimate? It means we have to be on our toes a little bit and can't expand conversations more than we need to but I think even if we have to work longer days, I think two days should be sufficient. We having one tonight? I'm not, I'm working.

CHRIS DISSPAIN: Now, I may get lost, of course.

ALAN GREENBERG: I think we've decided as much as we're likely to be able decided without some input.

ALICE JANSEN: No adjustments needed to the work plan at this stage.

ALAN GREENBERG: We are pretending we'll find a time in July, we really meet, we'll get the work done and so I think that's a reasonable target. To be honest, if we meet late in July, 7th of August is probably going to be really difficult to meet, so we may have some slippage there anyway but if we meet earlier in July, then we'll have a few weeks perhaps. Depends when Lisa wants to take her vacation. Remember the shackles.

DMITRY BELYAVSKY: If we plan July, it can interfere with my vacation, so if we plan July, I'd prefer to know about it as early as possible to try to rearrange something that is rearrangeable.

ALAN GREENBERG: We'll be in the US so it won't be a problem. There's no snow in July in my part of Canada anyway. There normally isn't, this year I make no guarantees. We'll leave it with Alice and Jean-Baptiste and hopefully we'll get back moderately quickly on what some options are.

ALICE JANSEN: We'll take an action item to go to our meetings team with the request for a two-day face to face meeting in July, preferably in Brussels or Canada or wherever.

ALAN GREENBERG: Brussels will make it a lot more likely on Cathrin participating. Let's see what the answer is from Thomas because that maybe either a show stopper or not as important, depending on whether he's likely to act and participate at the time.

ALICE JANSEN: That will go to the report template, Jean-Baptiste will take that one.

JEAN-BAPTISTE DEROULEZ: Thank you, Alice. This is part of our wrap up for the face to face meeting. I'm just going to project that in the room. We have been

preparing this draft report template, which in fact if you have a look here is following the structure of your subgroup reports. This draft report template includes several sections which I'm sure most of you are familiar with. Start with the executive summary.

A summary of all the review team recommendations and I'll go deeper into that a bit later. A section which a background on the review. Finally, there will be a section per objective, so starting with the assessment of WHOIS1 Recommendations Implementation and then the different objects, Anything New, Law Enforcement Needs, Consumer Trust, Registrant Data. For each of these objectives, as I mentioned earlier the structure of subgroup reports is more clear. Based on your earlier discussion, we have added an extra section after recommendations.

So far you have topic, summary of relevant research, analysis and findings, problem issue recommendations if any and then we have added and it's worded like that so far but please confirm whether you would like to have this section and whether it should reworded. We have added possible impact with GDPR and other laws. If this should reworded thank you for commenting on that. Just going through the report, itself...

ALAN GREENBERG:

Can you go back to the previous one. Okay, I see, thank you. Go ahead.

JEAN-BAPTISTE DEROULEZ: I mentioned the first section within the report will be executive summary, followed with a recap of the review team recommendations. This is something that we have been using in previous reports and it allows the reader to have a quick look at the different recommendations from the review team. There we would report the number of recommendations, the recommendation itself, to whom this recommendation is addressed, the priority level and the consensus reached. After this section, that will be the background of the review this is to...

ALAN GREENBERG: To whom the recommendation is addressed, we can only formally address recommendations to the board, so that implies that would say, the GNSO if it's a recommendation about the GNSO but the Board is the one that we have to go to but the real subject matter is GNSO or looking for GNSO action. That of course might -- there might be multiple ones. If we for instance do the recommendation on whatever it was, the change to the WHOIS, that we said could be implemented by negotiation, which is an ICANN staff issue or could be the GNSO, there might be multiple things there. We'll wing it. If the format doesn't work when we have to fill in the blanks, we'll make it work.

JEAN-BAPTISTE DEROULEZ: And again, it's suggested someplace, it's not adopted yet and we welcome your input on that, on how it can be improved.

The next section after that is the background on the review so it's just to introduce the WHOIS itself, the purpose of this review and the different

objectives of the review and the methodology that was used throughout the review. Also, describe how members selected.

After that you have the response section for objectives and as I mentioned earlier this is totally mirroring what you and in your subgroup reports. We had added this extra section, which is possible impact with GDPR and other laws. We just need your confirmation on whether that can stay there and whether it should be updated.

After you have all different objectives with the same structure and then we enter the different appendices, starting with the glossary of terms, that's to list all the different terms that could be helpful to the reader.

Then your terms of reference. Your workplan with just a summary of the key milestones from the review team. A reference to the fact sheets and where they're available on your dedicated WIKI space.

The participation summary, this will need to be inserted. Finally, the bibliography. This is it. Do you have any questions or comments?

ALAN GREENBERG:

I don't think we're going to have a lot of questions, comments until we start trying to fit things in and decide how it fits.

STEPHANIE PERRIN:

You mention the fact sheet is basically just for attendance records and that kind of thing. When I first say it I thought, oh, good idea, a fact sheet on some of things we're commenting on. You're giving me that look, yeah, I know.

I would make the report more comprehensible if we had like a one-page summary of different issues, for instance, privacy proxy services, accreditation issues. We might get better comments, just saying. I do realize it could explode into an encyclopedia because just the stuff I've got on my list would be like 10 fact sheets. For instance, Alan would have to write the one on the ERRP, right?

ALAN GREENBERG:

May I first take a break, we seem to have two people leaving. Chris just said no. As we have two people who are leaving now or imminently, thank you both for participating. Safe travels. There's already a blogged published about it. Thank you. Let me give you the Greenberg theory of reports. The longer they are the fewer people read them. The longer they look the fewer people download them and we really want people to read this.

I think the core report, we are going to have to work really hard to keep to reasonable length, otherwise nothing but the executive summary will be downloaded. It's become practice within ICANN that when you have a report and an appendices or attachments, we put those in a separate document. Again, if you're downloading a 300-page document, people don't even think about it. If you segregate the attachments, then the document itself stays at a reasonable length.

As we start putting this document together, I think we're going to have to look at it and really make sure that we're delivering sufficient content for the number of pages to warrant people actually reading it and processing it. Otherwise, we could put gobble goop in it and probably

nobody would notice. There's an amazing number of document ICANN publishes that no one ever downloads or hardly anyone.

I take personal pride and I think I'd like to make sure that we have a report that people actually look at. As we're going forward and I'm not sure that makes a difference today in what we decide what the report looks like, that as we go forward I think we're going to have to look at this and say, is this a report someone's going to read and take time to through?

STEPHANIE PERRIN:

Allow me to ventilate the Perrin theory of reports. Having gone through an immense number of documents from my dissertation, I did find myself asking, what is wrong with this organization, do they not know how to write a report or what is it? And I think possibly the pressure is to write a very short report. Unfortunately, this is vast topic and I would say it's almost easier to write a comprehensive, good, longer report, then to edited it down to a short report.

That's what executive summaries are for, you can do a good but fairly lengthy executive summary for those who don't want to read the whole report. Take for instance all the work that Lili on accuracy, try condensing that down and explaining adequately, it's much easier to write longer. I say this not just as piled higher and deeper student recently escaped but I'm thinking about staff because if they're trying to gel 40 pages into 5, that's going to be very difficult to make it comprehensible. I think ICANN has suffered from that.

The other thing I would note is failure to document, which versions of reports they are and how draft they are and blah, blah, there should be a sheet at the beginning report that tells what version it is and what draft it is and what date it is and hopefully who wrote it but anyway.

ALAN GREENBERG: We have good support staff, that part I have no problem about. I agree with a 100%, it is easier to write a large, long report. I wasn't addressing how it easy it was to write, I was how likely it was anyone reads it and that I think is -- to me is important, maybe not to everyone.

STEPHANIE PERRIN: I'm not sure. I think I'd rather they comprehend it. I'd rather have fewer people comprehend it then the ones who just want the short version can always read the executive summary and the table contents.

ALAN GREENBERG: Anyone else like to weigh in on this? This is a really substantive issue and I think it will be a critical issue.

LILI SUN: Actually, when I received the draft report template I'm not quite sure how to flesh my findings into the draft report template. I need to report back about five recommendations, so finally I decided to go through the five recommendations [inaudible], so I'm not quite sure how we can flesh out the 16 recommendations in the final report? Are we going to dealing with them one by one or as a whole or just group as we did in

the review team? How to make the final report to be organized and structured?

ALAN GREENBERG: Want to put back up the table of contents while we're talking.

ALICE JANSEN: The organization that Jean Baptiste just laid out mirrors the subgroup distribution, the idea would be that in each section where the subgroups findings identification of problems and then recommendations would be completely described. Then in section two, review team recommendations, that is simply a summary table of the recommendations that would be more fully explained in the other sections. Does that help?

ALAN GREENBERG: It doesn't help because we have section four which is all of the previous recommendations and that doesn't make a lot sense organized like that.

ALICE JANSEN: No, that's not -- sorry lost my microphone. The idea is that is the first of the recommendations and then there would be a section for two, which would be the second recommendation and so forth.

ALAN GREENBERG: The numbering implies that but I didn't catch that.

SUSAN KAWAGUCHI: I'm not sure, I'm worried about the size of the report until we see some more of the report and so I think maybe we can argue then about has this one section gone too far? Each subgroup is going to come up -- we'll have the template to follow but I think each subgroup will sort of attack their section and their responsibilities a little differently and so we should -- cause I'm not a writing a 20 or 10 key fact sheet, I just can't see myself doing that but I'm not saying that's a bad idea either. Maybe come July then we could figure out how much content we really have and then we could say, well don't read Stephanie's cause it's 200 pages.

DMITRY BELYAVSKY: We can get this estimation just now because the digest of the report was displayed by the presentation, so we can think that each slide will match to one or maybe more pages, and if I'm not mistaken, we've seen more than 150 pages, yeah, no? Am I wrong?

ALAN GREENBERG: A lot of slides on a lot of things. If you look at the draft reports we did, I don't think they add up to 150 pages.

DMITRY BELYAVSKY: In fact, for now we had something about 150, but maybe we had something extra that can be removed. For example, the IDN recommendation seems to be the simplest part and it can be compacted without loss of sense, less than six pages, maybe five if you compress it as hard as possible. But such topics as data accuracy and

law enforcement and so on and so forth can be compacted so and should be much more.

ALAN GREENBERG:

To be clear, I wasn't saying don't include content, I was simply saying the report should be organized so the significantly big chunks of things that people could pass over should they choose, can be put in appendices and attachments and things like that. The inline code as it were the inline for it is not a horrendously large document. Looks like it's done already, we can just go home. Alright, I don't think we need to come to closure on this but clearly, it's going to be a subject that we will revisit as the report starts being fleshed out.

JEAN-BAPTISTE DEROULEZ:

Alan, just one thing. When you mentioned with your question on the structure of the objective one recommendations, there's something I forgot to mention is that based on your discussion tomorrow, there was an idea expressed this morning about having a section for high level recommendations, if you recall. This is as well something that should be added to the structure.

ALAN GREENBERG:

Yeah, I think if you look at it now, the concept we said we need an introduction, there's no introduction there, clearly we're going to have to add one just to frame where we were and what we were looking at and the implications of GDPR and all of the other things on the workplan.

The original discussion of whether we should even hold the review at all at this point, I think we have to mention. I don't think we can ignore it. Clearly, we will have something like an introduction. The introduction may have a subsection of high level conclusions perhaps, maybe that's where those recommendations will fit, I don't know, I'm not sure.

ALICE JANSEN:

The background of the review would be where there would be discussion about for example, the limited scope proposal and how this team arrived at its objectives. The membership of the team and so forth but that is all background not actually your recommendations put forward. You probably want to have something clearly set out that contains recommendations, that will people read to your point, they might not read that background section.

ALAN GREENBERG:

Maybe we have a section called Global Recommendations or whatever. I don't think we're going to limit what we recommend based on the structure of the report. We'll adjust the structure of the report to fit what we need to do.

CATHRIN BAUER-BULST:

Just to suggest that we could even think about categorizing the recommendations by objective. If we think about the objectives that we want to reach and this one was to think about how the overall process would need to change to be more responsive to reviews, what we think of now as horizontal comments and we could slot them in

there and then comment to improve the WHOIS overall could be separate I guess, that could be one way of structuring it and making it clearer what the review team was aiming for with the two sets recommendations.

ALAN GREENBERG:

Further comments? It's clear, we have a structure that we're going to use to start putting the information together. As we do that, if we find that things just don't fit, then we will make suitable adjustments. I don't see any other way forward. If we were Nasa, we would plan six different review formats, depending on how it unfolded and had them already to use but I don't think we need to do that.

DMIRTY BELYAVSKY:

And just one question. Is it possible for the supporting team to help with populating sections regarding background methodology, things like that?

ALAN GREENBERG:

I have no overpowering desire to write those myself and I'm sure we're going to have a lot of desire to edit them and critique them, it's an awful a lot easier to say, let's change it then to write it from scratch. I'm presuming you have sufficiently low ego that if we say, this doesn't look right we have to redo it, it'll happen and we won't offend you too much. I certainly have no problem with those sections starting to be populated.

Experience tells me we'll probably accept most of what you do without thinking about it a lot. Does anyone have an objection to that work proceeding? When you say, 200 pages on just the background we'll worry about it. That was a joke. I use to belong to a group where you had to wave a flag if you did that, had a joke, so everyone would know to laugh.

Further questions? The alternative to that last suggestion is we could keep everything blank and then at the last day tell you you had to write it.

ALICE JANSEN:

The next item we had on our list is ICANN 62. On day one we had a conversation about the label the engagement session should be given. There were some conflicted views on what that should be, should it be a hit session or just an ordinary engagement session. I know I heard some concerns about sending the wrong expectations and so on, so we just wanted to bring that up again and see how you feel about that at the end of day two.

ALAN GREENBERG:

There's a meeting tomorrow morning that I won't be attending because I'll be on a flight at the time I think to talk about these. I'm supposed to provide my vote tonight and I'll look at them. My understanding of the structure and it may be wrong but my understanding of the structure is in general the mornings are being allocated to AC/SO's now, any given pair or AC's or SO's can chose to meet together, the GNSO can schedule a PDP and hope to have participation from other parts of the group if

they're willing to skip their own sessions but all of the sessions that are aimed at wider groups are scheduled in the afternoon with the generic title of either Cross Community Group or High Interest Group. I build what we were talking about as High Interest because I didn't expect to need a room of 1000 people for it. I don't know if we are committed to use the term High Interest in the title, I don't think we are. It's an interesting question to ask.

STEPHANIE PERRIN:

It still gets streamed as High Interest in the color code, so people will be going to it as High Interest.

ALAN GREENBERG:

Perhaps but calling it Engagement Session in the words may affect who goes there. We move back and forth between having absolutely rigid rules for these things and being more flexible and I don't know where we are today. I don't think we have a choice but to schedule it in one of the afternoon sessions if we want people from across the community to have a chance of coming to it. Between the two titles, I picked the one that was less likely to mislead people. We'll know better after tomorrow just where we sit on this. Stephanie, you look like you have a question.

STEPHANIE PERRIN:

The room allocations come out tomorrow? Just the High Interest?

ALAN GREENBERG: Tomorrow I believe, I haven't even looked at the voting form. At the very least we are going to try to prioritize the sessions that are deemed to be cross community, we may also be doing it on the ones deemed to be high interest, if you want to give 10 minutes I can find the email and I look at it, I just haven't had a time to look at it yet.

STEPHANIE PERRIN: I was just wondering the timing.

ALAN GREENBERG: At this point, if you look at past patterns, we might be told, sorry you're not high enough priority you don't get a session at all, at which point we'll have to decide how to handle that. I believe however, the high interest topic ones can maybe be scheduled against each other, so although as Erika suggested, we may not want to schedule -- we want to make sure that we don't schedule ours against auctions, there may well be conflicts between those. There's almost surely going to be some conflicts.

STEPHANIE PERRIN: Permit me to suggest that if you're up against GDPR, several of us will be missing, we'll be at the GDPR session or listening with earphones.

ALAN GREENBERG: I would suspect GDPR is going to be in the category of cross community and therefore deemed to be not conflicted I believe. Not conflicted doesn't mean someone can't schedule a meeting against it, but they are

consciously scheduling it against it. We have requested that those time slots for the cross community ones be locked in early so that people know what they've been scheduled against and what not. One doesn't always have full control. Further discussion? I think we're as done as that as we're going to be.

ALICE JANSEN: Perfect, thank you. In terms of next steps, you're working towards sending your final subgroup reports by May 24th, emphasizing the by in case you feel like sending in this week it's fine.

ALAN GREENBERG: When you say reports, you mean the draft reports section, as opposed to an ad-hoc report?

ALICE JANSEN: Subgroup level.

ALAN GREENBERG: Subgroup but the document into this meeting we were calling the draft report section, okay, just want to make sure we all know what it is we are expected to deliver.

ALICE JANSEN: As you all know your RDS calls now take place on Monday's at 14 UTC and then next call is schedule for April 30th. As you need them, please reach out us to schedule any of the subgroup calls, we're happy to help

you. We're available here as well as a writing resource if you need our help to get your final subgroup reports sections ready. If anyone has a question at this stage or any comment?

ALAN GREENBERG:

I do, one of the questions was, do we want a plenary meeting on the 30th? That is slightly over a week from now, a week from next Monday. We have cancelled next Monday's meeting, we thought that was really crazy, I thought that was really crazy. Do we want a plenary meeting on the 30th? Do we think we're going to have enough discuss at that point? Staff may things already lined up for us I don't know or do we want to take the opportunity to try to encourage subgroup meetings?

CATHRIN BAUER-BULST:

I was in favor of doing the plenary call on the 30th when we first discussed on the leadership but I actually now think it might be better if we first focus on our subgroup work and advance them a bit, in particular, this is a bit selfish, I'm just conscious that I need to get a lot of stuff done on mine and would prefer to have a couple subgroup calls instead. Maybe I could already put in a request in to have one schedule for law enforcement and for the strategic priority.

ALAN GREENBERG:

I'm going to be busy till at least Wednesday of next week on the backlog that I built up this week, of things that I haven't done. That's going to give me very, very little time to do any real substantive work that is worth reporting to a plenary, so that's my personal one. I don't know if

anyone else has any strong feelings. Is there any strong argument why we should have a plenary meeting on the 30th?

The leadership knows but I haven't formally said, I won't be at the meeting, I happen to have something else happening that day. I have no reason they shouldn't be held if indeed there's a good reason to hold one. I hear no strong demands for a meeting, I several people saying why there shouldn't be. Lisa's going to tell us why we should have a meeting.

LISA PHIFER:

I'm not going to argue in favor of a plenary meeting but I wonder if we could get commitment from each of the subgroups who indicated that they still have substantive work left to do, to schedule at least one subgroup call in this two-week period?

ALAN GREENBERG:

I think that's completely reasonable. I think we made a decision, no plenary meeting on the 30th, we resume on the May 6th or something like that, 7th. Let's make sure I'm available then.

STEPHANIE PERRIN:

Why we would not do May 4th?

ALAN GREENBERG:

Because we're meeting on Monday's.

STEPHANIE PERRIN: We're only meeting on Monday's now.

ALICE JANSEN: Okay, so unless there are any additional comments I think we can move on to the review of the review team agreements and action items for all the topics. If you look in your email, you have this document that's on the screen. I think it will be easier for you to read from your computer screens then from the screen we have in this room. Do we want to read through this now or do you want to spend five or ten minutes going through that paper on your computers, what is your preference? It should be at the top of your inbox.

ALAN GREENBERG: Sorry, I said that offline. We're going to take a few minutes for people to find the documents and take a quick look at them. Everybody ready? Let's go.

ALICE JANSEN: Alright, so as you can tell from the first section Overarching Implementation Assessment, you have two review team agreements. One is, implementation is taking a long time, identifies a problem, recommendation to be formulated and the other one is, review examined not just what WHOIS1 recommended but performed a cumulative review. These are two agreements we have. There are not action items. Is there anything else that needs to be added here?

ALAN GREENBERG: I'm not sure what the second one means? Sorry, I'm confused. Lisa, does that mean that we did review team one and other stuff that has happened since?

CATHRIN BAUER-BULST: I was just going to suggest that that's what I think it means, is that we assess the implementation of the first set of recommendations and we also did some further review.

ALICE JANSEN: Okay, so we'll mark this as confirmed.

LISA PHIFER: I thought we had come up with other overarching recommendations or discussed them, like a risk assessment and...

ALICE JANSEN: That's in another section, it's in the draft report one. We'll get there. No problem. The next section is WHOIS1 Recommendation 1 Strategic Priority, which Cathrin's group. Where is the strategy from WHOIS that was made a priority? Who owns WHOIS strategy? Who tracks and provides oversight for the strategy? What does success look like? High level guidance to measure success against metrics is needed.

ICANN took actions but not those envisioned by the WHOIS1 recommendations. Notably the Board working group or EWG are not the cross community committee WHOIS1 recommended. These are the

review team agreements that you have and there are no action items.
Do we have any comments here or can we mark this as confirmed?

ALAN GREENBERG:

I do. I assume the first three bullets are essentially examples of why we believe a strategy was not implemented because we couldn't find those. There was certainly some discussion of saying and we should again, recommend that WHOIS be treated as strategic item, presumably including these kinds of things next time, is that intent?

CATHRIN BAUER-BULST:

Yeah, I agree, this might be reformulated to reflect what we have come to a conclusion on, namely that we have doubts that there is a strategy for WHOIS that was made a priority. If there is a such a strategy there does not seem to ownership to find anywhere and there is no sufficient tracking and oversight system to make sure that strategy implement. The third bullet is really that we have to decide as a review team that perhaps we need to provide high level guidance to the Board on criteria for defining success in implementing the strategy. We could reformulate these bullets a bit to better reflect what we agreed upon but I think that's what's intended here.

ALAN GREENBERG:

Recommendation that going forward they should treat this a strategic item with the appropriate accoutrements. Seeing nothing else, next.

ALICE JANSEN:

Thank you. We'll mark this as confirmed. Single WHOIS Policy, Carlton's group. Review team agreements are, there is no single WHOIS policy. The Board did not have power to produce a single WHOIS policy but took action it is empowered to take, in brackets, initiated a PDP, developed a process framework, etcetera. In absence of single WHOIS policy, actions were taken to provide consolidation and navigation, although improvements could be made to that, it still would not be a single WHOIS policy.

Review team agreements with recommendations are, accepts that WHOIS1 review team recommendation is fully implemented. Accept that the adoption of the EWG's final report and development of the framework for the Board initiated GNSO RDS PDP is intended to deliver a holistic next generation WHOIS policy framework that would address current set of fragments and decentralized WHOIS policies. We have an objection from Stephanie Perrin.

ALAN GREENBERG:

Comments?

STEPHANIE PERRIN:

Thanks for including my objection. I'm just looking back on the first bullet and I'm a little uncertain what we mean by no action items, does that mean we're done with the strategic priority?

No, okay good. In other words we've reviewed it and that part is done but we still need to come up with a recommendations, okay good, thanks.

ALICE JANSEN: Yes, just to clarify the action items are just a list of action items identified during this meeting, certainly not indicating that there's not action need.

STEPHANIE PERRIN: There's still lots of work to do right?

ALICE JANSEN: We'll mark that as confirmed. Recommendation three, Outreach, Alan's group. Review team agreements include, materials are available but not up to date nor labeled appropriately. Insufficient targeted outreach outside the ICANN community needs to identify where outreach is needed. Agreement on recommendations are public facing information related to gTLD registration needs to be reviewed and formulated to ensure update and consistent messaging.

Information to be updated includes, RAA related documents on registrant's rights, benefits and responsibilities. The WHOIS porthole and education tools, for example ICANN learn video tutorials. Recommendation to perform outreach activities to be reiterated. Goals for outreach should be more explicitly enumerated. Any comments here?

ALAN GREENBERG: A couple of comments, on the first bullet not up to date, I'm not too worried about the wording, it's not up to date, not consistent, there's a

variety of different adjectives or adverbs to describe it but they're captured already in the draft report. I'm happy to just leave at this, just recognizing this is not the definitive list but the draft report as it is revised out of this meeting.

Number two, both of the sub bullets and the last major are with a caveat that this should not be done until the GDPR ground is a little bit more stable. Again, that's within the final report but you may want to include it here just for clarity.

ALICE JANSEN:

Okay, so we'll make those changes. Next item is recommendation four Compliance, Susan. Review team agreements include, subgroup analysis findings for recommendations four implementation but has not yet formulated recommendations. Subgroup has not yet documented findings analysis for its second objective, although it put forward two recommendations associate with that objective. The compliance and accuracy subgroups need to consider how to reconcile overlaps between the findings and recommendations.

Findings, issues, recommendations will be handled by the two subgroups through Susan to avoid duplication of effort. Recommendations are, recommendation four one, all policies implemented should require metrics, measurements, auditing, tracking, reporting and enforcement by the compliance team. Recommendation four two, all DNS registrations should be required to adhere to the WHOIS requirements in the 2013 RAA.

We have a have series of action items here. Susan to confirm question for ICANN compliance, which is completed by the way. Subgroup to try testing recommendation of WHOIS policies that are being examined by this review, for example. PPIDN to see if metrics monitoring, reporting and enforcement has been designed for those. Susan to formulate recommendations to address the following, should monitoring be proactive as well as reactive, not complaint driven or addressing individual complaints but also addressing systemic complaints, for example, many complaints about the same domain or registrar.

Should there be a recommendation to build on the DAAE as to input compliance CCT recommendation, opportunity to look for patterns that identify bad actors, for example, registrar with high number of inaccuracies. Susan to examine CCT recommendation on DAAR to build this subgroups recommendation. Susan again to research 2013 RAA negotiation materials to determine any reasons for allowing grandfathering.

SUSAN KAWAGUCHI:

On the forth bullet under review team agreement, finding issues recommendation is to be handled by the two subgroups through Susan, are you talking about the two different compliance subgroups or are you talking about compliance and data accuracy?

ALICE JANSEN:

Compliance and data accuracy.

SUSAN KAWAGUCHI: Okay, I knew we were going to work together but I didn't -- I guess I wouldn't have characterized it that way, not that it matters.

ALAN GREENBERG: I thought that we decided that the Any Recommendations would be made under opuses of the compliance section as it were?

SUSAN KAWAGUCHI: I agree with that. I guess I just -- what this says to me when I look at this is, Lili will no longer head up data accuracy.

ALAN GREENBERG: Findings and issues are still purely under data accuracy. Recommendations we shifted over, I think is what we decided.

STEPHANIE PERRIN: Lili to confirm list to ICANN Compliance, that sounds like where the handover takes place, rather than a hole less pole less hand over.

ALAN GREENBERG: Lili had formulated a number of recommendations and I think what we decided is those would be transferred to compliance to look at whether they fit in with other recommendations that were being made in compliance because there was some overlap. I think that was the point at which we said, we should really take the recommendations and put them within the compliance recommendations if there are any.

LILI SUN: The provision to shift all the recommendations to compliance are the current policies regarding data accuracy has been enough and effective. I proposed two directions for the recommendations on data accuracy, the second is not ICANN Org, but to the registrars to play an active role, to improve the data accuracy. In my opinion, the current policies are not enough or effective to improve the accuracy.

ALAN GREENBERG: I do vaguely recall that, to be honest three days ago is sort of difficult. I think again we're going to have to look at those carefully because like some of the other ones, we don't have the -- the Board cannot simply do things like that. If we are going to put obligations on registrars, there's a moderately complex process by which we have to do it and I think we need to assess, is that the best way to get that data or is there some other way?

Maybe we were just a bit too quick in simply saying, the compliance group would handle it and maybe we need to look at those again. You said you're going to -- you've discovered some various things and you'll be issuing a revised section and I guess at that point we need to look at it very carefully and decide how to proceed on it. We have several hands, we have Lisa and Stephanie.

LISA PHIFER: Here's what I think you guys agreed on as an approach, which is that the findings and the problem identification would remain in the accuracy

subgroup report. You would look at the recommendations that were produced and those that relate to compliance move to the compliance subgroup report. That doesn't imply to me, that there can be no recommendations that stay in accuracy, it's just that they're not compliance related.

STEPHANIE PERRIN:

That exactly confirms what I thought we had agreed to. It's probably just lips in the language. I raised my hand because I did think that it was in this section that we talked about compliance, addressing a risk based approach to their investigation. Understanding of course that right now they have to investigate complaints but if they see a nightmare in front of them they're not addressing it proactively at the moment, could they do that. Don't put it in those precise words but I think that's where we need the words, risk based approach.

SUSAN KAWAGUCHI:

When I brought that up a little while ago, you said that was in a different section. We've combined --

ALICE JANSEN:

It's actually in the section -- the draft report, Lisa go ahead.

LISA PHIFER:

I think we're actually talking about two different things. There was an overarching recommendation risk assessment should be performed, I think that's what Alice is referring to is in a different section. Stephanie,

I think you are saying that compliance itself, should take a risk based approach to what they proactively look in compliance, which I think hidden underneath the point related to DAAR. DAAR would just be one way assessing risk.

STEPHANIE PERRIN:

I just want to make sure we get the words, risk based approach to investigation in there because I think one of the points I made on that score was, unfortunately the metrics slide into these how many cases did you resolve and there's plenty of stupid, easy cases to get your tick, tick, tick, tick and it requires a risk-based approach.

ALICE JANSEN:

My proposal is to amend the action item. We heard Susan to formulate recommendations to address the following, talks about monitoring that's not just reactive, to reflect the risk based approach as part of that formulation of recommendations.

JEAN-BAPTISTE DEROULEZ:

We're now on recommendation seven nine data accuracy, in terms of review team agreement, a lot work has been done on recommendation five to nine but reporting is not necessarily clear, implementation failed to meet objectives of this with recommendations. However, there is a question as to what extent the objectives can be achieved.

Susan and Lili to confirm questions for ICANN compliance. Findings recommendations will be handled by the two subgroups to avoid duplication of efforts. Under action items, Lili to look into compliance

actions and work data work accuracy subgroup. Lili to confirm list of questions to ICANN compliance.

CATHRIN BAUER-BULST: I have comment on this one because from the text it now sounds like Lili has done a lot of work but the reporting that she's done is not necessarily clear and I think what's meant is that ICANN has done a lot of work on implementing. I would suggest that we adjust the wording to make the clearer because I think that's what we're trying to say here. As I understand it, you have determined that ICANN has invested a lot of efforts into data accuracy but neither the reporting nor the question of whether it really reached the objectives set is satisfactory.

LILI SUN: Actually, the reporting is not necessary clear. The reporting is clear but just based on what has been done, so there is no link to the objectives, I mean the impact to the objectives is not clear, is not reflected in the report.

LISA PHIFER: I worry maybe we're talking about different reports. This is not the implementation and annual report but it's the accuracy reports. I'm not sure what objectives would be linked to any accuracy report.

LILI SUN: According to the WHOIS1 recommendations, there is like [inaudible] objective, like the accuracy reduction should be 90%.

JEAN-BAPTISTE DEROULEZ: Any further comments? Recommendation 10, privacy proxy services, under review team agreement several issues identified by its own findings of those, Volker as an action to clarify. Two new issues identified, the length of time this recommendation took to implement and ways for privacy proxy services abused by criminals.

No recommendations at this time specific to recommendation 10 but the review team should try to progress of the IRT and consider recommendations related to compliance if necessary. In addition to specific recommendations there will likely be a general recommendation about the duration of policy development implementation. Under action items we have Volker to clarify issues.

LISA PHIFER: The action item made more sense and context than it does in the separate table. I think there were specific issues identified in the subgroup report, we might want to enumerate which issues those were.

JEAN-BAPTISTE DEROULEZ: Thank you. Moving on with recommendation 11, common interface, under review agreement we have internet was not overhauled but common interfaced was provided. However, common interface has no metrics that can be used to determine its effectiveness. Metrics and SLA's could be used address this and also to proactively spot noncompliance. Any recommendation made be more explicit about

intent of common interface. Between bracket, one stop access to data across all gTLDs and registrars/resellers.

ALAN GREENBERG:

I'm not sure what the last bullet means. In any recommendation made be more explicit about intent of common interface, okay, so if we are going to make any recommendation about common interface we should explain why we want it.

LISA PHIFER:

I think this was in reference to the fact that the common interface might end up being very different in the future and so if you describe what you're trying to achieve in the common interface and then say that you believe that metrics should be generated and so forth that then the recommendation would apply to a replacement version of the common interface.

ALAN GREENBERG:

Since we're not likely to be able to specify exactly what that new interface will be, given the timing that which will be issuing this report, we're really saying that we want metrics in SLA's for those reasons in the current -- common interface or any evolution of it.

JEAN-BAPTISE DEROULEZ:

Let's move on with IDN, under review team agreement, work was done to the extent it can be done without an RDAP based WHOIS system and

note the commercial feasibility loophole in the current contract allows registrars and registries to not implement RDAP.

DMITRY BELYAVSKY: Should leave RDAP there or formulate as just new register data service? As for now RDAP is the most probable but it's not yet.

ALAN GREENBERG: What we're saying is an IDN capable WHOIS replacement. I think there is absolutely no question that it's going RDAP and I don't think we're going to faulted if suddenly the world changes an IETF comes up with a new protocol, I don't think we'll faulted for it, so I'm happy. If say something more generic and IDN capable WHOIS, people are going to say, but why don't you want to use RDAP? We're not going to win, so we might as well keep it simple.

JEAN-BAPTISTE DEROULEZ: Moving on with plan and annual reports. Here under review team agreements we have a recommendation to improve methodology when documenting implementation steps, milestones. More effective reporting structure is needed.

Then we have outcome based reporting, not just activity based reports. Develop track progress against the workplan not just an action plan. Make similar recommendation for reporting on implementation of this review teams recommendations and the annual WHOIS reports but including desired characteristics for those reports to make them more

effective. For example, our quarterly status report implementation is substitute for an annual report on the implementation.

ALAN GREENBERG: Comments, questions?

CATHERIN BAUER-BULST: Just to say that I think we identified a link with the strategic priority one also because that refers to regular reporting, so we should make sure to reflect that or to think of it as we go forward in drafting this and maybe we can just work together on that one. That's what I'm wondering, for us to coordinate maybe, going forward.

JEAN-BAPTISE DEROULEZ: No other comments? Moving on with anything new. Under review team agreement we have several items that compliance implications to be addressed by the compliance subgroup. Several items already covered by WHOIS1 recommendation subgroups. Agreed to deal with reseller lack of transparency on the consumer subgroup.

Agreed to make general comment regarding dissatisfaction with conflict with privacy law, between brackets under auspices of overall reports. Finally, noting overall that the impact of GDPR has not yet been addressed in this review and between brackets, under auspices of overall reports.

ALAN GREENBERG:

I see nothing.

STEPHANIE PERRIN:

As I'm contemplating finalizing the draft on this so that it just plunks into that chapter, I realized we keep sort of punting things to other sections but certainly even though there's going to be the section on the lack of a strategic overall plan for this, the reason that some of the Anything New particles, discrete objects don't hang together, is because they aren't part of an overall plan. Any objections?

I'm going to throw that in there and you can weed it out later but I think it's important. The discreet particles that we look at under Anything New, all of this potpourri of things that have happened, unfortunately are missing bits partly because they have not been crafted with a framework that sets the overall strategic priority of WHOIS and what we're looking for, therefore if things are left off or if things are just downright stupid like WHOIS conflicts with law, there's no framework to stop them from being stupid. I do think it has to go in here. I see Alan is looking worried and disagrees. You're going to love my purple pros Alan.

ALAN GREENBERG:

I worry because a good half of the items there are there because of the first WHOIS review team and that's as much of a plan as one could of imagined. Some of them predated the WHOIS review team, for instance the ERRP predated it. Things get done for a number of reasons and not all of them are because they're part of a glorious plan.

STEPHANIE PERRIN: No, the glorious plan ensures that they are well done with all of the policy implications factored. Yes, people said we need one of these, we need one of those, it's like going out to buy dinner and you don't have recipe, so you agree, okay we need this, this, this, this and this but they don't all fall together because they're not part of a strategic plan.

ALAN GREENBERG: Write it but I think we're going to look at it from a GNSO perspective of, is the GNSO capable of responding to that kind of initiative which essentially may commit it to a half dozen PDP's.

STEPHANIE PERRIN: But as you say Alan, these things were done and they were usually done by a GNSO working group and if they weren't done with perfection, it might be because of a lack of strategic planning, not a lack of capacity in the GNSO.

ALAN GREENBERG: Write it but we may have some interesting discussions at that point, not just you and me but in general. Just of a bit of an explanation. I have participated in an ending discussion in the GNSO on planning and prioritizing and things like and sometimes stuff happens.

JEAN-BAPTISTE DEROULEZ: Moving on with law enforcement needs. It would be useful to -- under review team agreements sorry, it would be usefully to survey law enforcement now to establish a baseline for comparison. The same survey would need to be reworded and post GDPR to assess the impact. It is important the survey has a global reach. The full review team can assist on survey methodology. Lili agreement to join subgroup 2 to assist, especially in connecting outreach to her Interpol contact.

[Inaudible] survey to examine the questions raised in the objective between brackets, speed, availability, accuracy of data, etcetera. Under action items for enforcement needs we have, Lili to review the questions that were provided to the subgroup and subgroup to draft survey questions for review team consideration.

CATHRIN BAUER-BULST: First for the review team agreement, I should disclose at this moment that Stephanie have a secret agreement for her also to join the subgroup. We could maybe include that in the review team agreement if everybody's agrees to that and Stephanie still agrees to that?

Then for the actions items, I would just suggest that we put the second one first. I'm going to put the review team -- I'm going to reconsider the questions and then circulate them. Lili and Stephanie and I think a few others also volunteered to a look at the questions. We can maybe circulate generally in an action item. I guess we don't need to reflect the subgroup call.

JEAN-BAPTISTE DEROULEZ: Moving on with consumer trust, under review team agreement we have definition of consumer to be addressed must be broad and include internet users. WHOIS contributes to consumer trust mostly indirectly. Subgroup will take feedback on board and use outputs of other subgroups to assess impact of WHOIS1 recommendation implementation on consumer trust. Strong direction but still need to do work, being aware of potential drift into non WHOIS aspect of consumer trust.

Subgroup should formulate a recommendation noting lack of reseller transparency in the WHOIS as a potential gap to be addressed through policy and or contractual changes. Under action items we have Erika to take feedback on board and use outputs of other subgroups to assess impact of WHOIS1 recommendation implementation on consumer trust. Subgroup to take on reseller lack of transparency topic.

ALAN GREENBERG: I don't see any comments.

JEAN-BAPTISTE DEROULEZ: Safeguarding registrant data, under review team agreement we have formulated new recommendations that ICANN should use contemporary standards for secure data storage and retention and breach notification. Subgroup defers request to interview escrow providers and contracted parties. Subgroup wishes to review of contracts in place with escrow providers regarding data storage and breach notification. Subgroup to develop further findings, issues after examining contracts.

Breach notification involve notification of ICANN by escrow providers, the review team does not wish to extent this notification of individual registrant. Under action items we have questions for ICANN Org, first what are contractual requirements to secure stored escrow data? What are contractual requirements to notify ICANN in the event of breach? How do you secure registrant data under your control? Alan to refine question number three.

ALAN GREENBERG:

Several things. The first bullet on the left, formulate new recommendation, ICANN should use contemporary standards for data storage, retention and breach notification, I don't believe we're talking about breach notification by ICANN.

Remind me, we talked a lot about this but I'm not sure we came out with a statement that we should make a recommendation that ICANN should use standards without some evidence that they're not. I think what came out of that is, I would ask compliance what -- I don't remember the wording, what standards are they using to ensure their registrant data is properly protected when it is in their custody.

CATHRIN BAUER-BULST:

I think that's what it says on third bullet...

ALAN GREENBERG:

Okay but I'm looking at the first bullet and I think that was the conclusion that came out of it. I think the first bullet was something we may have talked about but it morphed into the other one.

STEPHANIE PERRIN: I think that the bullet under breach notification requirements is a little harsh because as far as I can see, it's GDPR requirement now. To not recommend action on this, it reads like we're going to ignore GDPR.

ALAN GREENBERG: Which one are you talking about?

STEPHANIE PERRIN: I'm talking about safeguarding.

ALAN GREENBERG: Which sub bullet, left or right, bullet number?

STEPHANIE PERRIN: I'm on the -- where did I see. I don't think I hallucinated it. Thank you. Does not wish to extend this, is not a question of whether we wish to or not, it's already extended, you got to do it because ICANN has to, under the controller agreement ice down it's precise relationship with escrow provider and that would include breach notification, who's liable.

ALAN GREENBERG: I believe what we said there, I hadn't gotten to that bullet yet, I believe what we said in the last bullet is, we would require breach notifications from escrow providers and contracted parties.

We want to know if any of the data has been breached or if there are potential breaches and we will not make as a contractual requirement that the contracted parties must notify individual users, they may well have that obligation under various laws but we are not going to put it in as a contractual requirement for us to require them to do that. That is what we decided I believe.

STEPHANIE PERRIN: Just out of curiosity, why would we not note something like, that it may be a requirement under GDPR?

ALAN GREENBERG: I believe the reason was and I think Cathrin voiced it, that different jurisdictions may well have very different rules about what their own companies must do in their jurisdictions and we could note to them, you may have some requirement under your local law but that's not a contractual term we can enforce and is not normally written into a contract.

STEPHANIE PERRIN: But this isn't a contract, this is a review report, right?

ALAN GREENBERG: We're talking about what we are going to require them by means of the contract. I believe under the third bullet on the left, we said we'd like to review the escrow agreements not just regarding those sub items.

STEPHANIE PERRIN: Okay, I would just like to note for the record that under the rubric of safeguarding registrant rights, we should have some kind of a recommendation that contracts should reflect breach notification rights of registrants/end users because that's just basic. You're talking safeguarding registrant data and if you don't extend that to the registrants you aren't safeguarding registrant data.

ALAN GREENBERG: How would you word such a statement? A statement in a contract with a registrar?

STEPHANIE PERRIN: None of those recommendations are contract language, they're recommendations that -- what should read here is, given the extent of global legislation which protects customer/end user's rights by demanding breach notification, ICANN should examine all its contracts to ensure that contracted parties brackets, escrow agents etcetera, include notification of end users/customers/registrants brackets. How's that? Because you're talking about safeguarding registrant rights, this is just...

ALAN GREENBERG: We're safeguarding registrant data please, not rights.

STEPHANIE PERRIN: Right, data. Even more evident then, their data's being breached they need to be notified.

ALAN GREENBERG: I guess I have a problem and I asked how would you formulate it not because we're trying to formulate it but I can't imagine how I could formulate it as a contractual term.

STEPHANIE PERRIN: Well, I can show you plenty of contracts where it's formulated. I mean, my god, it's a law in every state now, 50 states have -- it's in the contract, you got to pass it on.

ALAN GREENBERG: Those are laws. I don't have to have in a contract because it's already the law.

STEPHANIE PERRIN: Okay, well I did a lot of Canadian contracts and we had them even before it was law. It's just such a normal requirement nowadays Alan, it's a no brainer.

SUSAN KAWAGUCHI: I'm wondering if that is actually a separate recommendation we want to make that's overarching?

STEPHANIE PERRIN: Maybe but we certainly don't want to say that we're not going to recommend it because that would fly in the face of current practice.

SUSAN KAWAGUCHI: Because you were referencing it to registrant right and responsibilities, so maybe there, the data we're talking about is WHOIS data for the most part, it's a subset of that.

STEPHANIE PERRIN: It's awfully hard to leave it out safeguarding registrant data through because it's so basic.

ALAN GREENBERG: I guess I have a problem, if in any given jurisdiction it is already the law then what we're not changing anything. If it is not the law, are we really in a position to tell a registrar in Guyana, should they not have their own breach laws that they have to notify all of their registrants?

STEPHANIE PERRIN: Not having perfect memory, I can't remember exactly what I dictated when you asked me to formulate it but I'm not sure I said every single state. I said, ICANN should review the contracts and ensure -- I will draft you language how about that, okay?

ALAN GREENBERG: Let's see what you're going to draft because I'm not quite sure what problem we are solving.

STEPHANIE PERRIN: Leaving a gap here Alan. I'm trying to protect us from attack and leaving out safeguarding -- leaving breach notification, there are lots of people out there who care about privacy and probably the only thing they understand is breach notification because of all the breaches since 2001.

ALAN GREENBERG: Draft something so we can see what you're talking about. I've lost complete track of what I was going to say. I think the rest of it is okay but I'll read it again later and let you know if I disagree.

JEAN-BAPTISTE DEROULEZ: Moving on with draft reports, the review team agreement we had lead off with statements about GDPR and how review team handled the changing landscape. Include somewhere a statement or recommendation about how ICANN handled GDPR and other applicable laws. Within each subgroup report include standard section that will address any impact the GDPR has on its findings, example given where recommendations apply without impact by data protection laws areas that might need to be reassessed after policies change as a result of applicable laws. Does that sound correct to everyone?

Under next steps, under review team agreement we have subgroups to use WHOIS implementation assessment framework as a checklist. No adjustment needed to workplan. Proceed with the current draft report structure with caveat that changes may be needed. Under action items

we have ICANN Ord to ensure, monitor the ICANN62 session does not conflict with auction proceed session.

Session was submitted as a high interest session by Alan. Leadership to contact Volker and Thomas to determine if the matters that prevented them from participating actively are expected to continue. Rapporteurs to reach out to Stephanie if need to help, between brackets, Stephanie's areas of expertise, risk management, privacy and law enforcement. Stephanie and Lili to be added to subgroup number 3 law enforcement.

Dmitry to be added to recommendation 10 privacy proxy services. ICANN Org to contact meetings team to inquire availability to a two-day face to face meeting in July, preferably in Brussels. ICANN Org to insert introduction section to contain overarching findings and recommendations including impact of GDPR and overarching recommendations. ICANN Org to being populating sections that pertain to background, methodology etcetera. No plenary call schedule for 30th of April. No comments?

LISA PHIFER:

Just to note I think it's the third from the last bullet, actually the phrase that follows the comma, including impact of GDPR and overarching recommendations is repeated twice.

JEAN-BAPTISTE DEROULEZ:

No other comments? Thank you, Lisa. The last section which other and under that we have as an action item, ICANN Org to produce the meeting statement.

ALICE JANSEN: Evidently, we need to make a few more edits to this document, so we'll circulate that to the review once these are incorporated but then what do you wish? Do you wish to give a window of opportunity for any last additional comments before it's considered as set in stone?

ALAN GREENBERG: How long can we wait? How long a period do you feel comfortable with giving people? This is not a document we're going to publish is it?

ALICE JANSEN: No, it's for you to go back to.

ALAN GREENBERG: Next Wednesday too much of a strain? Next Wednesday, end of business next Wednesday?

ALICE JANSEN: Okay. I guess this takes us to AOB.

ALAN GREENBERG: Do we have any other AOB?

SUSAN KAWAGUCHI: I just wanted thank everybody because having participated in review team 1 and I'm sure there's others that are participating in other review

teams. Staff has done an amazing job of keeping us on track with a lot of encouragement and kept us organized, which is amazing. The WHOIS review team 1, we were probably a year into it before we actually started drafting, I kept saying, why aren't we drafting.

But because of the way the subgroups were set up and all of the support, it just seems like this has been an easier way to go at this, so I really appreciate that. Thank you, guys. Then to the review team members, it's been -- yes, we have our moments when we're adamantly opposed or vehemently agreeing, one or the other but I thought it was a really good three days of meetings, so I wanted to thank everyone.

ALAN GREENBERG:

Or violently agreeing. Any other formal AOB? Well, I was going to make some closing remarks, Susan has already made them for me to a large extent, thank you, Susan. No, the amount of effort that went into preparing for this meeting, both the review and the staff, we started off, I guess we're not sharing any secrets, we started off not too long ago putting together a three day schedule that we really had no idea how this was going to work out and miraculously with a few changes here and there, we have finished the three days, it's 10 minutes before our official breaking time.

We're pretty well done everything we can expect to have done and perhaps a little more than some of us thought we'd actually get done. There's an old expression of, we're seeing the light at the end of the tunnel, one that goes along with it is, are you sure it's not a train coming at you? But, we are making significant progress and I'd like to express

my appreciation as Susan did for all the work that's gone on, both the people on the review team and the staff. Thank you.

I was reminded by one of my non-native English-speaking colleagues a while go, that I regularly adjourned meetings, and technically adjourn means you are temporarily stopping the meeting so you can restart it, so this meeting is not adjourned, it is ended. Thank you all very much.

[END OF TRANSCRIPTION]