

Donna Austin, Ry  
Heather Forrest  
Keith Drazek  
Paul McGrady  
rafik dammak  
Stephanie Perrin  
Susan Kawaguchi

**Apologies:**

Marika Konings

**Staff:**

Caitlin Tubergen  
Terri Agnew

Terri Agnew: Welcome to the small team EPDP scope call on Monday 9th July 2018 at 13:00 UTC.

Caitlin Tubergen: Hi All, please find a link to the document shared in the adobe room here:

[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_docs.google.com\\_document\\_d\\_1TlcnfYuRhrCKVB28Rvb-5Fra6mCIWvjUDnJyJhSjbG5-5FQ\\_edit&d=DwIFaQ&c=FmY1u3PjP6wrcrwl13mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmKXhFzL7ar9Qfqa0A1gn-H4xR2EBk&m=clkinFEBt4xkKwEtr6DkvQth4Qn5gANzq6P2eazBvvo&s=n7CJLNY\\_SAE1mvvdTgOAbVNI47TwE4143zYSa7dqGWA&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_docs.google.com_document_d_1TlcnfYuRhrCKVB28Rvb-5Fra6mCIWvjUDnJyJhSjbG5-5FQ_edit&d=DwIFaQ&c=FmY1u3PjP6wrcrwl13mSVzgfkbPSS6sJms7xcl4I5cM&r=DRa2dXAvSFpClgmKXhFzL7ar9Qfqa0A1gn-H4xR2EBk&m=clkinFEBt4xkKwEtr6DkvQth4Qn5gANzq6P2eazBvvo&s=n7CJLNY_SAE1mvvdTgOAbVNI47TwE4143zYSa7dqGWA&e=)

Heather Forrest: Hi small team! I'm mindful of document deadline (which ends in roughly 10 hours) for our 19th meeting. If it's OK with you guys I'd be grateful to listen in to get a sense of where things are before the deadline hits.

Keith Drazek: Hi all. The 9182 number is me.

Stephanie Perrin: apologies for the delay

Susan Kawaguchi: agree to recording

Keith Drazek: Yes, recording is appropriate.

Heather Forrest: +1 recording

Keith Drazek: Is Marika joining this call?

Donna Austin, Ry: No, Marika is not able to join the call.

Keith Drazek: Ok, thanks.

Heather Forrest: Hi Donna, thanks - just here to listen, appreciate your facilitating

Terri Agnew: Welcome Rafik Dammak

rafik dammak: hi all

rafik dammak: just listening

Keith Drazek: I'm ok with using the term "staggered" instead of "phased" or "parallel" provided the temporary specification initial report is published. That has to be the priority.

Stephanie Perrin: Why not "once the initial report has been published, and address the appendix in a parallel approach"?

Stephanie Perrin: (should have read "the team can address")

Caitlin Tubergen: Thanks, Paul. Per Marika, several people mentioned that it was difficult to discuss a two phase approach without being able to see what that would look like on paper. This document

outlines the two phased approach while at the same time it also includes all the comments / edits that were put forwarded on the original text.

Paul McGrady:Thanks Caitlin, Since it doesn't look like we will do arbitrary phasing, it would make sense to me to revert back to the document that everyone had a chance to contribute to, rather than taking our time to go through the newest document to make sure it captured everyone's comments. At some point we need to go through this line by line and get the work done, instead of creating and auditing documents.

Keith Drazek:We don't have to set a timeline/deadline for the non-Temp Spec issues in the Annex.

Paul McGrady:+1 Susan.

Paul McGrady:@Keith - no deadline will result in a run away PDP-like outcome. We can discuss what that timeline should be, but there needs to be one.

Keith Drazek:@Susan: Are you reporting the lack of responsiveness to ICANN compliance? Contracted Parties are required under the Temp Spec to provide access for legitimate reasons/purpose.

Paul McGrady:@Keith - same response as always - the offer of a perpetual game of whack-a-mole is not appealing. We need to fix it.

Susan Kawaguchi:@Keith there is no compliance for what is now called "non public data"

Susan Kawaguchi:and ICANN's reaction to those reports is not responsible

Susan Kawaguchi:There is NO access currently

Keith Drazek:In light of our time pressure on finalizing this Charter, perhaps we should acknowledge answering the gating questions as the pivot point for designing an access model.

Paul McGrady:Folks, we are still talking about the high level merits of each side rather than digging into the Scope document on a line by line basis and we are at 24 after.

Susan Kawaguchi:I am fine with most of the gating questions being answered before the access works

Paul McGrady:Still hearing a false dichotomy between the Temp Spec and Access. Access is part of the Temp Spec.

Stephanie Perrin:I like the compromise, but the questions are not going to be "answered" in the interim report even, until we received community comment on our primary work. This is one reason (among many) why I like the specificity of "publication of the interim report" although it would be improved by saying "including the group's proposed answers to the gating questions"

Stephanie Perrin:Let us be clear folks....obfuscating the language of the scope merely punts this argument to the working group. This is the first compromise that needs to be made.

Keith Drazek:I said "building an access model" not "access" in general. Everything in Temp Spec is in scope for the EPDP.

Stephanie Perrin:WE need to agree that the primary questions of the temp spec do not include the implementation details of access.

Keith Drazek:The Temp Spec Section 4 language is definitely in scope, as I have said repeatedly.

Stephanie Perrin:On that last point we agree. I have a dentist appointment at 1 EDT tomorrow (which is looking better than joining the potential EPDP at this point) (joke: root canal is better)

Heather Forrest:Doc deadline is for the purposes of the motion; I don't think we procedurally need the charter fully finalised in the next 10.5 hours but I do agree that we need to coalesce around the principled questions re scope

Keith Drazek:Thanks Heather

Paul McGrady:@Stephanie - what would be the principle that you propose?

Donna Austin, Ry:Paul, can you live without the avoid fragmentation language?

Keith Drazek:Perhaps we should use "registration data" instead of references to WHOIS.

Stephanie Perrin:Can you please pull up my comments.

Stephanie Perrin:Old hand. Please pull up the comments.

Stephanie Perrin:In my most recent comments

Caitlin Tubergen:Comment from Stephanie re: fragmentation: Avoiding fragmentation of WHOIS....does not make sense. RDAP permits much greater articulation and specificity of data access, and avoids dataflow that violates DP law. 4. Preserving existing policies? Why? Data practices at ICANN have long been non-compliant with DP law. Existing policies such as data retention, the thick transition, the [ridiculous] WHOIS conflicts with law do not map to data protection law requirements, and put contracted parties and ICANN at risk, not to mention ignoring the rights of registrants. Please, if this is the kind of intervention we are going to get all the way through this EPDP, we will never finish. Just drop this paragraph.

Stephanie Perrin:The last data protection authorities letter was rather clear on this point. Why even ask the question, unless you are trying to find a way around their objection, which of course is the case.

Stephanie Perrin:Caitlin, that is an abbreviated version....missing a couple of numerical points and a few rhetorical flourishes

Caitlin Tubergen:Apologies, Stephanie.

Stephanie Perrin:no problem, I was rather wordy.

Caitlin Tubergen:This suggested replacement paragraph raises so many issues that NCSG has historically contested, that it would be simpler to dump it and stick with the original above. To enumerate a few:1. The "mandate to collect data" was set by the US govt, in the US, and is overbroad when viewed in the context of other countries' data protection laws. It has been in contention from the inception of ICANN. 2. We disagree with the goal of maintaining the WHOIS service to the greatest extent possible. WHOIS is dead. 3. Avoiding fragmentation of WHOIS....does not make sense. RDAP permits much greater articulation and specificity of data access, and avoids dataflow that violates DP law. 4. Preserving existing policies? Why? Data practices at ICANN have long been non-compliant with DP law. Existing policies such as data retention, the thick transition, the [ridiculous] WHOIS conflicts with law do not map to data protection law requirements, and put contracted parties and ICANN at risk, not to mention ignoring the right

Caitlin Tubergen:I believe that captures the comment in its entirety.

Stephanie Perrin:Yes I think that is it, thanks so much!

Stephanie Perrin:As I pointed out to GOran on the panel in Panama, the first discussion of the overbroad language enabling the WHOIS directory came from Professor Stefano Rodota, in 1996. He was the Italian DPA at the time, and the first chair of the Article 29 Working party

Stephanie Perrin:(Also the boss of Giovanni Buttarelli, the current EPDP, who doubtless recalls approving the language.)

Stephanie Perrin:Do you see any signs that ICANN is prepared to take on the legal responsibility for WHOIS, Paul? and is there any evidence that this would eliminate the legal liability of the registrars and registries? I would submit that the answer to that question is not. Read the correspondence from all the DPAs if you doubt my opinion.

Keith Drazek:Yes

Stephanie Perrin:yes

Heather Forrest:I'm ok if you're willing to let me listen in again

Susan Kawaguchi:Yikes

Stephanie Perrin:poor Susan would suffer

Susan Kawaguchi:I can do 5 am

Keith Drazek:Yes

Stephanie Perrin:sure.

Paul McGrady:Sorry Susan!

Terri Agnew:We will get invite sent out for Tuesday, 10 July at 12:00 UTC

Susan Kawaguchi:Donna will also suffer, not sure where Caitlin lives

Stephanie Perrin:If staff could send out the relevant documents, including the one with all the comments, it would be helpful to review.

Paul McGrady:Can we please have some back and forth on email about the perceived benefits of fragmentation of the WHOIS? I've been asked to remove that part of the IPC question so would like to understand the reasons why further fragmentation would be a good thing.

Caitlin Tubergen:Caitlin will also suffer, but that is OK. :) (same timezone as Donna)

Stephanie Perrin:Yes we are very concerned, and we have to consider how bad this thing is going to look generally once all these concessions are made.

Paul McGrady:yes thanks Donna

Keith Drazek:Thanks Donna. A consolidated and updated document will be helpful.

Susan Kawaguchi:Thanks all

Heather Forrest:If I can be of help Donna in facilitating tomorrow to save you from evil time zone, just shout

Stephanie Perrin:If it will prejudice outside viewers, there is no point to it. Just like to underline that point.

Caitlin Tubergen:Thanks, Donna!