
BRENDA BREWER: Hello, everyone. This is Brenda speaking. Welcome to RDS WHOIS2 Plenary Call #37 on the 6th of August 2018 at 15:00 UTC. Attending the call today Dmitry, Susan, Volker, Lili, Alan, and Erika. From ICANN Org, we have Alice, Brenda, Lisa, Steve, and Amy. We have no observers at this moment. We do have apologies or delays from Chris and Cathrin and Jean-Baptiste has sent his apologies.

Today's call is being recorded. Please state your name before speaking for the transcript. Alan, I will turn the call over to you. Thank you.

ALAN GREENBERG: Thank you very much and welcome to the first conference call following our third plenary. To start with, is there anyone with any statement of interest changes? I'll note we had expected changes from myself, Chris, and Stephanie. If those have to do to the EPDP, if those haven't been submitted, I would appreciate if they would be. I presume Brenda or someone will bug you if they weren't done.

The first substantive item we have is the review of the subgroup status report. I presume I will turn it over to Lisa for that.

LISA PHIFER: Thanks, Alan. We had essentially all the subgroup status reports turned in in updated form since our face-to-face meeting with the exception of the anything new section, which was not turned in. Some of the subgroup reports only went to the subgroups and not to the full review team, but we did forward those to the full review team list over the

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weekend, so all those should have been available for everyone to review in advance of this call, again with the exception of anything new.

I would note that some of those updated reports included new proposed recommendations. That would be data accuracy and law enforcement needs and the consumer trust update actually removed some recommendations and turned them into observations. Chris and Erika will cover that when we get there. The one section in addition to updated reports that we have not yet received is the executive summary, which Alan, I know that you [inaudible] drafting.

ALAN GREENBERG:

Yes. And when we get to that at the end of the list, I'll tell you where we are on that one. Without any delay, why don't we start looking at the specific subgroup reports? Sorry. I see we had a sub-item saying what do we do with missing reports? The only one that's missing is anything new, and if we don't get that I would say by the end of business today, then Susan will provide that one or Susan and I will provide that one. Lisa, does the end of business today work for you or do you want it sooner than that?

LISA PHIFER:

I think it's actually up to you all, given that that would leave you essentially a week to review it in advance of trying to approve it on our next call.

ALAN GREENBERG: Let's give Stephanie until the end of the afternoon where she is and where I am, assuming they're the same thing. That's another six hours or so. After that, either I or Susan will do something. With that, let's go on to the recommendations.

LISA PHIFER: The first set of recommendations are from Cathrin, but since Cathrin has not yet joined us, do you want to move on?

ALAN GREENBERG: Let's do that and come back. If she doesn't join us by the time we finish this, we'll go over them anyway.

LISA PHIFER: So, that brings us to the outreach section. Not to jump over the subgroup for single WHOIS policy, but there are no new recommendations or really substantive changes to that draft, so that's why we did not prepare slides for that.

ALAN GREENBERG: That's fine.

LISA PHIFER: The floor is yours, Alan.

ALAN GREENBERG:

Okay. This one, remember, the original recommendation had a conditional. That is charter a group or have the community decide whether we need to do something. I think we believe we decided in Brussels we'd have a strong enough case to simply say do it, but the details indeed should be governed by the ... But with community input.

The result and recommendation I had was with community input, the ICANN board should instruct the ICANN Organization to identify which groups outside of those that routinely engage with ICANN should be targeted effectively through WHOIS outreach. I'm not sure that quite reads properly. A WHOIS outreach plan should be developed, executed, and documented. WHOIS inaccuracy reporting was identified as an issue requiring additional education and outreach and may require particular focus. The need for and details of the outreach may vary depending on the ultimate GDPR implementation and cannot be detailed at this point.

The only question I have is do we want to make it more as an ongoing process as opposed to a one-time process? This sort of says build a plan, do it once, and then stop. I'm wondering if we should include some words that make it more ongoing, but without [inaudible]. I see no hands, no voices. Lisa, please go ahead. Then Volker.

LISA PHIFER:

Thanks, Alan. I'll just point out that when editing this recommendation to saying it in the context of the ICANN board, instructing ICANN Organization, it wasn't clear to me whether you wanted this recommendation to essentially [inaudible] the group that would look at who should be targeted or whether you wanted the organization to do

that identification. So, just calling that to your attention as you think about how to frame the recommendation.

ALAN GREENBERG:

We have enough groups in ICANN. I'm really reluctant to say go charter a new group, but it says with community input, which could be a public comment or some other form. So, I'm happy to leave it relatively vague saying you can't do it just with staff sitting in a room. So, I think that covers it, but if I'm wrong, please speak up. We have Volker and Susan in the queue. Volker.

VOLKER GREIMANN:

Thanks, Alan. I think maybe instead of chartering a group, we should just ask ICANN to take into account community input and that would maybe take care of your concern there. I also think that there's a certain charm in having an ongoing review process, an outreach program, since WHOIS policy is undergoing constant changes, especially now, and therefore the documentation that ICANN [inaudible] five years ago or even two years ago [without] the applicable name [more so] there should be a constant review and re-review within reason, I guess, to make sure that all the documentation is [provided], up to date, and that new technologies or new venues of communications are [exploited] as to the ability of ICANN.

ALAN GREENBERG:

Thank you, Volker. The current one starts off with "with community input" so I presume that covers your first concern. The second thing I

heard you say is not only should 3.2 be ongoing, but 3.1. That is the documentation on the website should be something that should be kept up to date. That's perhaps intuitively obvious. But, clearly, that's not something that ICANN has necessarily done in the past. I would suggest, based on what you just said, that both 3.2 and 3.1 be modified to imply an ongoing responsibility in addition to the one time. I think that maps to what you just said, but if not, put yourself back in the queue. Susan?

SUSAN KAWAGUCHI: I just want to agree that it should be ongoing. I think Volker made all the right statements there.

ALAN GREENBERG: Thank you. Volker?

VOLKER GREIMANN: Yes, Alan. Thank you. Right on the money. That's exactly what I intended because one of the problems ICANN has, it had in the past, is outdated materials and things like the [inaudible] website where still nobody knows who it belongs to and who manages that. So, to avoid that in the future, I think we should make it an ongoing [inaudible] documentation be kept up to date and, therefore, website and all other venues be [inaudible] that way.

ALAN GREENBERG: Thank you. That was an interesting discussion we had in Brussels on Internet. Anyone listening here who wants to know about it can go back

and find it, but it was interesting. I see no more queue. I'm finished in that case, so Lisa, back to you. I have two action items to modify recommendations 3.1 and 3.2 to imply an ongoing responsibility as well.

LISA PHIFER:

Thanks, Alan. So, just to note, in the full text of the recommendation where there's a section on implementation where you describe what successful implementation looks like, that would also be a good place to amplify that you would like to see ongoing maintenance of both this plan and the documentation. So, we'll get you the action to modify both of the recommendation texts to imply that's an ongoing action. With that, we'll go to the next group.

That would be Susan. The floor is over to you. We pulled out one of the recommendations here for the slide which had some placeholder text that you filled in, but please feel free to cover any aspect of your update that you think needs plenary attention.

SUSAN KAWAGUCHI:

Thank you, Lisa. I just sort of plugged a number into this. The ICANN board should direct ICANN Organization to assess grandfathered domain names to determine if the information is missing from the WHOIS registry field. If 10% of domain names are found to lack data in the registrant fields, then the ICANN board should initiate action.

In reviewing the documentation that we received, we received additional responses from GDD on this, on the grandfathered domains during the meeting, and according to them, it's 180 million

grandfathered domain names are still in that status, so 10% was 180 million – whatever. 10% of that is still a substantial number. So, I picked 10%. I am willing to be flexible on that number.

I also went through the report on the grandfathered domains and updated it to the current stats for the latest report. I had drafted most of this before the latest report came up, but I updated the report to reflect those numbers.

I'm also still really concerned about this number because, in doing the math, the trend may be going down, but the trend is going down for two reasons. One, it's growth of new domain registrations. The other, which would dilute that number – the other is some of these domain registrations are going away, but I don't think it's at a number at the speed that it's still acceptable. So, 180 million domain names could be in that status is still concerning to me. That's why I did the 10%. Volker, go ahead.

VOLKER GREIMANN:

Yes. Thanks, Susan. I still think that we should definitely acknowledge the trend of domain names going down, of registrations going down. I would not see the new registrations as being [inaudible] in that number. I mean, this is from quarter to quarter, it dropped by almost 10% over the WHOIS [inaudible] has presented here. That's in line with previous quarters as well. So, we might want to adjust that to an effect that if over X period of time less than 10% of domain names are found to lack required data, I think we should be [here] on that. Require data in the registrant fields. That actually should be initiated. I think that's

something that we could live with. The timeline going forward there would then – looking at what the current trends shows plus a little bit of leeway. So, I would estimate an additional year going forward. After that, we would have that review, and after that, if the trend has not [worn] out, then we can look at taking action and not before.

SUSAN KAWAGUCHI:

So, you're saying the collection requirements – I didn't fill in the month. So, you'd want to do 12 months?

VOLKER GREIMANN:

I haven't done the math and I apologize, I wanted to do this before today, but this was a busy weekend. I will try to have a look at the completed documentation, a complete report, and just make a suggestion here. But, if we look at the trends that we have showed in the [inaudible]. If you look at the table and we draw a timeline, then we will see a time when it should hit 0%. And if we then say by that time when it should hit 0%, if that trend that we have [fares] out, if it then still has maybe 20%, maybe 10-15%, of domain names that would be lacking or 10% that would be lacking, then action should be taken.

So, basically, we're saying we see this trend. We think that this trend will lead to a number that will be acceptable, but if that is not the case, then action should be taken. I can live with that. I would be able to defend that with registrars even though they will demand my head.

SUSAN KAWAGUCHI:

Okay. So, it would be helpful if you would provide the language once you've had time to review that again. But, I'm still concerned with not the percentage but the overall number. 180 million domain name registrations. And maybe GDD is not right. Maybe their calculations are wrong. But we asked how many domain names are grandfathered and they came back with 180 million. Unless I misunderstood their response.

So, if we all of a sudden get a tremendous spike in registrations and we have a billion domain name registrations, still having 180 million of those would lower the percentage, but it would still be 180 million domain name registrations.

We don't know if this is a problem or not, so I agree with that point of view. Alan, please go ahead.

ALAN GREENBERG:

Thank you. No matter what the curve shows now, even if it's linear at the moment, it doesn't stay linear. These things always slow down. So, saying it's going to reach zero and seeing if it does, we almost certainly know what the answer is there.

We can formulate a relatively complex formula on when the ICANN board should take some action. We know they're not going to accept our recommendations for close to a year from now. Nine months, maybe. Whatever the [inaudible] is. Certainly, sometime in the July timeframe of 2019. So, there will have been a change there. We can try to predict something, but I would suggest that in this version we leave the number at 10%. Let's not try to do a lot of arithmetic. We can put a

square bracket note perhaps saying the actual threshold is under discussion. Then when we do the final report, we can either put in something more complex to be the trigger or leave it at the number if that seems appropriate at the time. I wouldn't waste a lot of time right now trying to refine it. Let's put it out for comment and see where it goes.

But regardless of the [inaudible], we can reword this. I think if we're going to reword it with a threshold that is meaningful to both Susan and Volker, we're probably end up with it maybe more complex than we want. But let's defer that discussion and just get this out right now. Thank you.

SUSAN KAWAGUCHI:

Thanks, Alan. Back to you, Volker.

VOLKER GREIMANN:

Yes. Thank you. Alan, I fully agree. We all know probably never 0%. This is going to flatten out at a certain point, but that's why I said that we should look at the date when 0% would be reached under ideal circumstance. Then take the 10% or 15% or whatever number we want to put in there, acknowledging that there will be a flattening out. By that time, there should be noticeable results in that direction. That's my first point.

Second point, I agree that we will probably have at least a year, but even after that time, we should be [inaudible] of the effect that any board action or community action on those domain names will have.

This is going to be very painful for a lot of registrants and the registrants will have to defend whatever actions they take, of course, for the registrants to come into compliance with this. And they will bear the brunt of the consumer angry even though it's an ICANN policy, if and when domain names go down. That's [inaudible] just missing their e-mails or having some data not being present in the fields where [inaudible].

There are certain risks that we should bear in mind when we make this recommendation that there is [inaudible]. I would be very cautious of having a too ambitious goal here.

SUSAN KAWAGUCHI: Okay. Back to you, Alan.

ALAN GREENBERG: Thank you, Susan. Volker, are you okay with leaving that number and a note saying it is still under discussion, so we shouldn't spend a lot of time on this right now?

VOLKER GREIMANN: Yes. Thank you.

ALAN GREENBERG: Thank you very much.

VOLKER GREIMANN: I'll review it tomorrow and come back to you.

ALAN GREENBERG: Okay. The note can say discussion, input will be welcome. Whatever. I just don't want to agonize over a number here. We have a lot more substantive work to do.

SUSAN KAWAGUCHI: Carlton, I just want to address your – I'm not sure on the 180 million how long it's hovered there. Maybe I can connect with Amy and clarify some of this after the call. Lisa, I don't know if there was anything else. Were there any other slides for my portion of this?

LISA PHIFER: No, there wasn't, although there if there was anything you wanted to bring to the attention of the plenary, [inaudible] had a number of recommendations that you had fleshed out the supporting details for. If there's anything you wanted to call to the attention on during the review, [inaudible]. If not, we can move on.

SUSAN KAWAGUCHI: Yeah. I don't think so. I think this was the biggest thing to update the report stats from the latest report, the [RS] report. Alright. I'm done.

LISA PHIFER: Alright. So, [inaudible] the slide, we have pulled out the tables from Lili's report on data accuracy. Unfortunately, Alan, Lili has had to leave the

call. There was a family emergency. Do you want me to try to cover this? Do you want to ...

ALAN GREENBERG: Let's come back to this one. Is there any indication she may be back or not? I didn't see her message.

ALICE JANSEN: She did not indicate whether she would be back, I'm afraid.

ALAN GREENBERG: Okay. Let's hold it until the end and then we'll go back and review it at the same time as we do the other ones we missed.

LISA PHIFER: Alright. That takes us to Volker's recommendation to the privacy-proxy. Before we go there, just to recap the action on compliance. Susan is to incorporate a note that the percentage is under review and input is welcome. Volker? I'm just going to hand things over to Volker.

VOLKER GREIMANN: Okay, thank you. The first one, still not 100% happy with the language, but I think we're very close to what we wanted to achieve. I'm not sure if our new language is correct there, but basically saying that if there's a timeline towards information at the time where we say the timeframe ends, then of course no action would be required. Otherwise, if there's no timeline to implementation at that time, then obviously the board

should [propose] the amendment that we discussed in Brussels. I think that will be non-contentious. Maybe just have a look at the language, if I actually said what I meant and that way [inaudible] will be saved. Any comments? None, I'm moving on.

ALAN GREENBERG: Some of us are still reading.

VOLKER GREIMANN: That's alright. Sorry. I'm too fast, as usual.

ALAN GREENBERG: It's fine.

VOLKER GREIMANN: While you're reading, this last one just added, secondary recommendation. As discussed, that there obviously should be a review of the recommendation [inaudible], but we cannot currently do that as the implementation is still ongoing [of the] PPSAI. Therefore, we recommend that the next [inaudible] review team or any successor review team, whatever. I'm not sure if there will be another RDS Review Team, but there might I have or whatever. So, you might want to catch that, too. But at least by the next review team that deals with RDS, that should have this baked into their ...

ALAN GREENBERG: I think we said we should word that saying the ICANN board should recommend to the next review team that the PPSAI policy be reviewed or the implementation be reviewed. So, we may want to reword it like that, just to be consistent.

VOLKER GREIMANN: So, not just the effectiveness of the implementation, but the implementation itself.

ALAN GREENBERG: Well, I guess the implementation will be done according to the implementation review team, so we can't really second guess that. So, I guess the effectiveness, yeah. Whatever wording we decide on, the same wording should be used for the IDN recommendation as well. Lisa, do you feel comfortable rewording this or that? I see your hand is up. Or do you want Volker to do it?

VOLKER GREIMANN: Lisa?

LISA PHIFER: Actually, that's why my hand was up. I struggled with precisely how to reword these two recommendations, so I didn't. But I typed in the chat I believe what you want is the ICANN board should recommend to the next review team that they were [inaudible] this, etc.

ALAN GREENBERG: That's correct.

LISA PHIFER: Alright. Very good. Then, yes, staff can take that action on to apply that to the two recommendations [inaudible].

ALAN GREENBERG: Thank you. And next.

LISA PHIFER: Volker, still you.

VOLKER GREIMANN: Common interface. There's not many changes in the first recommendation. [inaudible] here or there. But the gist is still what we discussed in Brussels. I don't think there's much need for discussion. But [inaudible] recommend. Basically, ICANN should check that the common interface is actually usable in most cases and recurring, meaningful results and not just saying, "Yeah, well, they are." But just we don't know why and [inaudible] how many there are, which I think if we, [inaudible] separate.

Just a thought at this point, and I apologize that it's a bit late, but the RDS will have SLA baked into it and maybe we could just recommend that the RDAP SLAs also in some form or shape take this into account. [inaudible]. Alan?

ALAN GREENBERG:

I'd like to do something I don't really normally want to do, but reopen an issue from Brussels. I'm really concerned that we're not explicitly saying compliance-related issues should be referred to compliance. I know we said in Brussels that of course it must be. But I've seen enough things that must be that aren't. So I'm wondering can we get agreement to add a sentence saying if the metrics indicate that registrar/registry responsibilities are not being honored, that compliance issues be referred to compliance or something like that. Volker?

VOLKER GREIMANN:

Yes. It sounds harmless enough. Just wondering how ICANN staff, the compliance staff, could then use that against us. The problem is that we recognize that many of these outages or failures to serve up data are not necessarily compliance issues. I think we should recognize ... If we add language to that effect, we should also recognize that, in most cases, not returning a result is not necessarily a compliance issue, but for example, due to rate limiting which is absolutely legitimate under all the SLAs and the requirements of the RAA and all policies. So, we should be cognizant of the fact that having no results and having a failure in the [inaudible] interface does not automatically lead to compliance action maybe in that way.

ALAN GREENBERG:

No. But, similarly, if I file a report saying such-and-such registrar is not providing WHOIS service at all, they're not going to just take action because of that. They'll investigate. I would presume the same thing would be true here.

VOLKER GREIMANN: Yes. Lisa, can you add an action item for that, that I will refine the language and add something that effect?

LISA PHIFER: Could you reiterate what you would like the action to cover?

VOLKER GREIMANN: Basically, where Alan suggested that some form of referral mechanism to ICANN compliance in case the data that is collected by this recommendation leads to or indicates failure of a registrar to be in compliance with the publication under the [inaudible] policies. Basically, a compliance thing in there.

LISA PHIFER: Okay. We can certainly record that action. The reason I raised my hand is tracking metrics for something like this is a bit different than tracking non-compliant records for subsequent action. With metrics, you measure something over time and you maybe establish a pattern. For example, we've said how often does the data [inaudible] consistently overall and per gTLD. So, you might observe a pattern that a certain gTLD has data being inconsistent more often. But that doesn't necessarily give you the specific response information that would lead to a compliance action. So, I guess my question is how do you see that linkage actually working?

VOLKER GREIMANN: That's a good question and that's actually what I also just tried to raise, so thanks for rephrasing that. I think that if this data shows a pattern of abuse, of non-compliance, then ICANN compliance should be [inaudible] to investigate it just to make sure that there is some form of [inaudible] channel that this data flows back. But, like I said, this is going to be a bit of a [puzzler] and we'll have to think of how to correctly phrase that. That's why I wanted to [inaudible].

ALAN GREENBERG: I think the kind of "if" language you're talking about is fine. We're not specifying at what point do you refer it or at what point does compliance have to take action. Just implying that if patterns are found, which might imply a compliance problem, that compliance be alerted to the issue. The word alerted as opposed to take action is probably right.

VOLKER GREIMANN: I don't think the word, but like I said, I'll come back to something tomorrow.

ALAN GREENBERG: Okay. Thank you. I'll be happy with that. Lisa, back to you.

LISA PHIFER: Thank you. We'll note for Volker an action to update recommendation 11.1 to reflect that patterns of [inaudible] suggest a compliance action. Compliance would be triggered. And we'll let Volker work on the exact

language of that. Volker, I think we're still with you with recommendation 11.2.

VOLKER GREIMANN:

Yes. Thank you for switching the page. Basically, what we said, the recommendation as we discussed in Brussels to ensure that the common interface be kept up to date with new policy development contractual changes. So, basically, enshrining an obligation from ICANN to update this portal and ensure that it doesn't become as stale and useless as the Internet [inaudible] has become over time before it was replaced.

Of course, a second point, also included in there is ensuring that both registry and registrar WHOIS output be reflected on the portal as we are recognizing that these may well differ. Although that may change [inaudible].

ALAN GREENBERG:

Volker, if you could speak up a little bit, some people are having a hard time hearing you.

VOLKER GREIMANN:

Apologies. Sorry, Carlton. Second point of that recommendation is, of course, that part of keeping the portal up to date is also ensuring that in case there are differing outputs from registries and registrars on the same domain name, then both should be queried by the portal and both should be displayed in parallel. How that would be designed, that would

be up to ICANN. But ultimately, make sure that all data is available that can be publicly accessed.

ALAN GREENBERG: Lisa?

LISA PHIFER: I just want to be clear. At our face-to-face meeting, Volker had an action to indicate whether this was port 43 or what output or both. The resolution Volker, it sounds like, is it's port 43 only.

VOLKER GREIMANN: Yes. I thought about that. I don't see any way that ICANN would be able to access the web portals of the registrars in a consistent manner because they have certain access limitations that ICANN would have to work around. For example, CAPTCHAs that would have to be answered on the registrar level for the web WHOIS. The only effective way that I could see that this portal could be maintained at same cost levels I would assume would be having it on port 43, but that's obviously something the group could, that we could still discuss. That was just my own conclusion. That's why I put it in this recommendation like this.

Doing a web-based query for every domain name on the registrant, the registry, is technically not as easy as doing it via port 43. And I do recognize that, in some cases, the web-based might be more complete than the port 43, but there's just so many different implementations of web-based with outputs and query systems that it would be difficult for ICANN to keep abreast of all of those.

ALAN GREENBERG: That may be the case, but we know that port 43 doesn't always work. So, specifying only port 43 I don't think is a viable answer to this. Being silent I can accept but specifying port 43 when we know port 43 is going to be unreliable in some cases, and perhaps going forward, more cases, I have a problem there.

VOLKER GREIMANN: Yes. I see what you mean, but ultimately, I think the web-based WHOIS is going to be even more unreliable than the port 43 output.

ALAN GREENBERG: But we're precluding ICANN [inaudible] a new format with port 4973 which is used only by ICANN. I just don't think the recommendation should be that specific. If there's an implementation issue, they'll come back to the implementation review team that we're supposed to be setting up with this and we can discuss the details. But I don't think we should be that specific on the implementation, especially when we know with that specificity it won't work for some cases. Remember, my example I used to drive this was GoDaddy and we know port 43 doesn't work with GoDaddy right now.

VOLKER GREIMANN: We can remove the two words before [the three] and just leave it open.

ALAN GREENBERG: I'm absolutely happy if we do that.

VOLKER GREIMANN: Any other takers? Lisa?

LISA PHIFER: I do struggle with removing port 43, the reference to port 43, in its entirety because I'm not sure that gives ICANN specific enough direction as to what to implement. If all we're trying to do is provide a single point at which you make the same query that you could make by going directly to the registry and registrar, then I think you want to be clear about the way in which the registry and registrar should be queried.

If what you're trying to do is provide additional information that wouldn't be obtained through the registry and registrar, that's when some other special port that ICANN can only use would come into play, but if what you're trying to do is just provide that common interface, I really do think you need to say which interface it is you're trying to provide in common.

ALAN GREENBERG: I disagree. When the interfaces were defined, they were presumed to have the same output. Right now, they may be very different. As a result, I don't think we should be specifying one, especially when it's the one that may well not work. The web-based one we know has limitations due to rate limitations and things like that, which might not be easy for ICANN to get around.

So, I think we should put the requirement on them and let ICANN decide how they're going to do it. I mean, ICANN could say, "I'll use port 43, but if port 43 fails to respond or give substantive data, I will do screen scraping." I'm not recommending it and I shudder to think how they would implement it, but I don't want to preclude it by wording the recommendation in such a restrictive way that we could end up with a common interface WHOIS portal which doesn't provide information. Right now, if you look at a GoDaddy dot-org, dot-org provides nothing and GoDaddy on port 43 provides nothing. We're not providing a really good service at that point.

LISA PHIFER:

My concern is not so much that you specified the port but that you're clear on what the objective of the interface is. Is the objective just to show what the registry and registrar would show had the person doing the query gone directly there or is the objective to provide more?

ALAN GREENBERG:

No, not more. The registry and registrar provide whatever they provide, but right now, the registrars offer, in theory, to pass, and in practice those two paths can result in radically different information. Now, that may be fixed completely by the time EPDP finishes, but we don't know.

LISA PHIFER:

So, I think as long as the supporting text for this recommendation is pretty clear on that objective, that will work and then not specifying whether it's port 43 or what. My only concern is that [inaudible].

ALAN GREENBERG: I don't think anything we're saying there says the common interface should deliver more information than the registrar and registry normally give. This is not a GDPR workaround.

CARLTON SAMUELS: What we should be insisting on is the common interface that gives you the same data, common data. That's why we should be [inaudible]. the output that we are concerned about. [inaudible].

ALAN GREENBERG: And by removing port 43, I think it says that.

CARLTON SAMUELS: Okay. Sounds good. Let's do it that way.

ALAN GREENBERG: Let's move on.

ALICE JANSEN: We dropped Lisa, but she's in the process of rejoining the call, just so you know.

ALAN GREENBERG: Lisa? Sorry, that was Lisa you said is rejoining. My apologies. I misheard.

ALICE JANSEN: No problem. I think she's back. Lisa, can you hear me?

LISA PHIFER: Yes. I'm back. Thank you.

ALICE JANSEN: Okay. So, I think we can move on to IDNs with Dmitry.

DMITRY BELVAISKY: I totally agree with addition that [inaudible] until [RDAP] is in use. I [inaudible] other points for the record. I don't think we need [inaudible].

ALAN GREENBERG: Lisa, please go ahead. You're running the session. You don't have to put your hand up.

LISA PHIFER: Sure I do. Just to point out the same editorial change would be made to this recommendation as to the when we noted previously on privacy-proxy that the board would suggest to the next review team.

ALAN GREENBERG: That is correct, except this one has an added thing. It has to be after the work is actually done. I guess the same is true for privacy-proxy. We're

hoping five years from now it will have been done by then. But ignore what I just said. Let's just presume the board will have the smarts to not tell someone to review something if the work hasn't actually been done.

LISA PHIFER: The other point that I would raise is, Dmitry, since you weren't with us at the face-to-face meeting, was there anything else that you had a question on with respect to the changes that were made to your draft?

DMITRY BELVAYSKY: Okay. If something is still missing, I will update the draft.

LISA PHIFER: But my question was whether you had any questions on the updates made to the draft.

DMITRY BELVAYSKY: No, no, no. I have no objections. The update is reasonable and minimal.

LISA PHIFER: Okay, good. So, it sounds like we have no further action on these recommendations other than the editorial change to the framing of the recommendation itself which staff will take care of.

Let's move on to next, which is unfortunately one of Lili's. Alan, since you made an alternative suggestion here, would you like to go ahead and cover it assuming Lili is not coming back?

ALAN GREENBERG:

Yeah. Let's do that. If people can look at Lili's work, I found it still, number one, a little bit prescriptive. Number two, it wasn't really talking about what reports and plans we were talking about. It's a bit too late to revise how we do the ones for Review Team 1. It is out of our scope to tell them how to do everything, any plan or report they ever publish. So, I think the target of this review is the implementation for Review Team 2, for our review teams.

So, I rephrased it in what I think is a little bit cleaner language and specifically referring to the WHOIS2 recommendations resulting in ICANN board should ensure the implementation of WHOIS2 RDS Review Team recommendations, use best practice project management methodology, ensuring that plans and reports clearly address progress and effectiveness where applicable using metrics as tracking tools because not everything is metrified. I think it captures what Lili was saying, but puts the focus on the new recommendations, not the old ones. And yes, Lisa, there may well be typos there.

If you can send a note to Lili with that rationale, or do you want me to, just so she knows why what I've done? This was in a document I sent her, but unfortunately she couldn't open it for some reason.

LISA PHIFER:

So, we can incorporate that in the output from today's call and note this place in the transcript if she wants to listen to rationale. The one thing I would note in your rewording, Alan, is Lili made a point in her last sentence of calling out it should be included in the annual report and I

don't see your recommendation touching on the annual report or is that what you mean by plans and reports?

ALAN GREENBERG:

Well, I actually left it out because I wasn't sure what annual report she was talking about. Is she talking about the ICANN annual report or an annual report related to WHOIS? If it's the ICANN annual report, I'm not sure that a report on the WHOIS implementation is something that fits well into that structure. It may or may not in any given year. I guess I left out that descriptive and simply said when you do reports. Maybe somebody else has insight as to what she meant. I really don't think this necessarily fits into the [inaudible].

CARLTON SAMUELS:

[inaudible] ICANN annual report. I think she met the corporate annual report.

LISA PHIFER:

I'm not sure that's true because I believe that, if I'm not mistaken, we talked about the intro to this recommendation section saying in addition to the implementation, [inaudible] annual reports that were recommended by the first review team, this recommendation was offered. So, I think it was intended to be the annual WHOIS implementation report, but obviously we should be clear, whichever it is.

ALAN GREENBERG: How about saying all reports then? Just put in the word all before reports. I mean, we don't know where there's going to be quarterly ones, half annual reports, annual reports, monthly reports.

LISA PHIFER: So, are we comfortable giving Lili the action to clarify which reports this refers to, and if all reports [inaudible]?

ALAN GREENBERG: Sure. But I would put the word "all" in this one and then ask her to clarify if it needs more clarification. By the way, use instead of using. I had use and I changed it to using just before patching it into the chat for it to be included. Obviously, I haven't finished my second coffee yet.

LISA PHIFER: And just to note part of the feedback or response that you received from ICANN Organization on the updates they already have underway refer to the requirement of the bylaws that there be an annual review implementation report and possibly that's the report that is intended here. Clearly, it needs to be specified.

ALAN GREENBERG: Okay. I'm happy if you want to add more specificity. I'm happy if we just use the word "all" and presumably people know how to parse that word, but I'm happy either way. But we can certainly ask Lili to be more specific.

LISA PHIFER: So, the wording of that notwithstanding, are people comfortable then with Alan's alternative suggestion as the recommendation that we'll be moving forward with in our next round of edits?

CARLTON SAMUELS: Yeah, it's good. I [inaudible] add Alan's "all" to it and I note you'll use the word "use" you're changing. That sounds right.

ALAN GREENBERG: if nothing else, even if we revert to the old wording, we need to say what plans and reports we're talking about. It needs to be in reference to ours because that's the only thing we have scope to talk about.

LISA PHIFER: So, we'll indicate for today's call that Alan's alternative suggestion for 15.1 is agreed by those on the call with the typos corrected and some additional refinement on which reports are being referenced.

ALAN GREENBERG: Yeah.

LISA PHIFER: Good. Then we'll move on if there are no further comments on this one.

ALAN GREENBERG: No.

LISA PHIFER: That takes us to law enforcement needs, which unfortunately Cathrin is not with us to discuss. But she did formulate this draft recommendation based on her takeaways of a preliminary survey report, which of course we're not yet discussing the survey reports since the survey itself is open. Alan, do you have any thoughts on how we quickly obtain feedback on this new recommendation in contrast to—

ALAN GREENBERG: I have a question. This doesn't seem to be in relation to law enforcement. I presume she's talking about law enforcement because it says it should be extended to cybersecurity professionals and other with legitimate purpose, but we need a reference to law enforcement in the beginning.

LISA PHIFER: Yes. I assume when she talks about [inaudible]. When she says effectiveness of WHOIS, she probably meant effectiveness of WHOIS to meet the needs of law enforcement.

ALAN GREENBERG: Yeah. I think that needs to be added.

CARLTON SAMUELS: That's what she meant because the survey right now, the arguments [inaudible] at law enforcement [inaudible].

ALAN GREENBERG: I don't think there's any question. I'm only pointing out the recommendation has to be clear about that. The implication is we are not going to have any recommendations based on the results of the survey.

CARLTON SAMUELS: Seems to be the case.

ALAN GREENBERG: Volker, please go ahead.

VOLKER GREIMANN: Just two points. One very minor and the other [inaudible]. I'm just seeing here the recommendation WHOIS. I think [inaudible] as well. I think we should replace all references to WHOIS at least in the recommendations to RDS because, as we know, the future of WHOIS may not be called WHOIS and we should be clear that we mean whatever is serving that function in the future. That's the first point.

The second point is I am a bit struggling with the second part, the second bullet point of the recommendation because it's so broad and open and doesn't give any clue of who is actually meant by some of the terms. I mean, what is a cybersecurity professional? Probably anyone

that works in the domain space and has to deal with abuse cases could call themselves a cybersecurity professional. Actually, even myself as a registrar a cybersecurity professional [inaudible] function.

I think if we use terminology like that, we should define it very precisely what we mean by it and I'm not sure if the text of the rest of the report does that [inaudible].

I also think that the reference to the legitimate purpose is too broad because, even though you may have a legitimate purpose for using such data, it may still be locked out from you for various legal reasons. Example, [inaudible] law enforcement might have a very legitimate purpose in their law accessing registration data of WHOIS systems, but that would not be considered legitimate purpose by the registrar where the registrar is sitting. So, it strikes me with that word, with that term, as well. I think that should be more terminology of the GDPR with some restrictions baked into that language. But I'm not sure how to do that yet. It's just something that I'm concerned about.

ALAN GREENBERG:

I think your reference to EPDP and GDPR is right on. We are going to have some really difficult discussions on trying to decide how we establish authenticated access and who's accredited and who's accredited to get what and those are not discussions that we want to either hold here or prejudice the output on. So, maybe we need a footnote or a caveat saying we understand this terminology is going to be subject to refinement over the next year and leave it at that. I really

don't think we want to go there, but I don't think we can ignore the issue either.

VOLKER GREIMANN: Agreed.

ALAN GREENBERG: Lisa?

LISA PHIFER: I think what Cathrin was trying to do was the first half of this recommendation, and possibly it's two recommendations, was to recommend that the kind of survey that's being conducted now to determine whether the needs of law enforcement are being effectively met, that it should be continued and ongoing.

Then, in her second paragraph, I think what she was trying to get at is similar efforts to survey should be done for other groups in addition to law enforcement, but other groups that policy might determine have a legitimate need for WHOIS data. That would be a recommendation for the future, not something that this group here struggles with.

Maybe really what we need is for Cathrin to refine the language for that second part to state more clearly who would do those studies. Is the determination of those with legitimate purpose from policy and what timeframe does she envision this?

ALAN GREENBERG: I would be careful. I read what she said as cybersecurity professionals and others with legitimate cybersecurity purpose. Otherwise, you're opening up this wide to include intellectual property and anyone with a voyeuristic tendency. Perhaps cybersecurity and similar professionals

VOLKER GREIMANN: Could we maybe just use open language that would just refer to EPDP? Leave out cybersecurity professional, leave out other WHOIS users, but just make a reference to whoever the EPDP determines to have a legitimate form of access?

ALAN GREENBERG: No, I don't think so, Volker, because we're talking about a recommendation under law enforcement needs. If you're saying – what you're saying implicitly is that when we decide on various classifications of access under the EPDP and its follow-on parts associated with accreditation that we should periodically survey to see if we're really meeting needs, which is true. But I don't think that has anything to do with law enforcement. So, I think that would be scope creep in the extreme.

VOLKER GREIMANN: Could I suggest that it should extend to other qualified WHOIS user security groups and leave it at that?

ALAN GREENBERG: I'm happy with that. As I said, I think we need a footnote of some sort, a footnote or a qualification saying this is going to be fleshed out as we work through GDPR access requirements or access procedures. Erika has had her hand up for quite a while. Let's give her a chance.

ERIKA MANN: Thanks, Alan. That's a topic I'm a bit concerned about because of many reasons because who is actually able to get such kind of data, and reliable data, in particular in the future, WHOIS is going to be less visible. So, who is actually able to make such kind of judgment?

Now, they are in different regions in the world. They have certain entities who are able maybe to get such kind of information on behalf of the law enforcement people entrusted by ICANN. But how reliable is the data actually going to be? I find this puzzling.

Typically, what you would do and what you would request is for an entity to make transparency reports and these transparency reports would show how many law enforcement requests were successful or failed, or will not be able to be met because the request was not in accordance with local law. That's typically what has done. Just to ask ICANN, actually, to do such kind of assessment, I find it becomes work. It doesn't matter how you turn it around, it's impossible it can work.

ALAN GREENBERG: First of all, I note we have just slightly over 15 minutes left on this call and a lot more to do.

ERIKA MANN: Yeah. We don't have to discuss it. [inaudible]. I don't care what comes out of it. I just don't believe it can work.

ALAN GREENBERG: Just to be clear, Alice, are we on a two-hour call?

CARLTON SAMUELS: Yes.

ALICE JANSEN: Yes, we are.

ALAN GREENBERG: Oh, okay. So, sorry about the 15-minute warning. That's not applicable.

ERIKA MANN: Nope, no worries.

ALAN GREENBERG: My only comment here is we cannot extend this past law enforcement in these recommendations because that's what our scope is.

CARLTON SAMUELS: I think if you say other qualified user groups and then you put a qualification that you suggested, Alan. That would take care of it because using the word qualified suggests that we are going to have a

process to become a qualified user group. Adding the footnote that talks about how GDPR and so on would make that even clearer.

ALAN GREENBERG:

Yeah. Just remember how we got here. We got here saying maybe we should extend our survey to what we call cybersecurity professionals regardless of whether we can define them today or not. What we said is we put a recommendation in that we do this. We're not trying to do it any wider than that.

I would leave it as cybersecurity and related professionals and not imply that it's anything past that. Lisa?

LISA PHIFER:

If I might, I put something in chat that seems to me that the recommendation as it's formulated is putting the cart before the horse. I don't know if that translates in all languages. The first step is to identify who that additional audience is and that probably falls to the EPDP. Then the second step would then be to implement studies to determine the effectiveness of WHOIS in meeting those needs.

ALAN GREENBERG:

The EPDP, with any luck, will be dead and gone by the time the board accepts our recommendations or pretty close to that anyway. I don't think we can target a recommendation at the EPDP because the board, to give a recommendation to the EPDP in July 2019 is probably going to be a bit late. But we can certainly make reference to – this terminology may well be fleshed out by the EPDP as it progresses. Volker?

VOLKER GREIMANN:

Yes. I am just concerned that leaving this in the first part as it stands might term to a self-driving car again with ICANN in the way that we are conducting surveys and studies and find out that, yes, indeed WHOIS not effective in meeting the needs of law enforcement and we're not asking the question why that is. Maybe there are very legitimate reasons why these needs are not met, like GDPR, like jurisdictional issues, like legal requirements for certain parties and certain jurisdictions to have a subpoena. That would frustrate law enforcement needs, but not be an issue that ICANN can really address.

So, we're just asking part of the question that we should be asking or that we might be asking, and therefore we're getting results that would lead to [inaudible] when ICANN finds out here we are not addressing law enforcement needs with the products that we have, which is WHOIS, and therefore we need to do something which is a wrong conclusion because the conclusion may just be we're not addressing the needs but there's nothing we can do about that or nothing that we should do about that. That's part of the conclusion that ICANN might make is taken out of the equation here and I think this has a very distinct direction which might not be the direction that ICANN needs to move in going forward.

ALAN GREENBERG:

Let me ask a question. We have a bylaw requirement to review RDS – WHOIS/RDS. One of the subparts of that is review the effectiveness for law enforcement. Unless we are recommending that that section be

excised and removed – and I have not hearing anything to that effect – what does this recommendation say that is not implicit in the bylaws already?

The only thing it says is – and it doesn't say it clearly if it's saying that – is that we should be doing this periodically, not just waiting for a five-year review. Is that indeed what we're saying or not?

LISA PHIFER:

I think the intention of the first bullet here was to say that the study should be ongoing, not performed every five years. The intention of the second bullet seems to be to extend beyond the strict definition of law enforcement and I don't know ... I don't want to put words in Cathrin's mouth that she didn't express, but she may be saying that cybersecurity support law enforcement, and so meeting law enforcement needs includes meeting the needs of cybersecurity professionals.

ALAN GREENBERG:

I believe that is exactly what the intent was. That's why I suggested removing the others with legitimate purpose and saying "and related" because it implies there has to be a law enforcement tie-in. Susan?

SUSAN KAWAGUCHI:

Thanks. I just wanted to agree. I think I either brought this up or agreed with Cathrin at the time. I can't remember who suggested it first. It's really hard to talk about law enforcement and the actual work without all the cybersecurity professionals, too, because so much is fed up from

the cybersecurity professionals to law enforcement. They work in conjunction.

But I do agree that it's too broad, the last part of that second bullet, "others with a legitimate purpose". I think that will become confusing down the way. Adding Alan's terminology "related" would be fine with me. But I do think if this is just simply to target all the other types of professionals that work in conjunction with law enforcement, that not to broaden it as far as IP interests.

ALAN GREENBERG: So, are we agreed on that?

CARLTON SAMUELS: Yes.

ALAN GREENBERG: So, we have two changes. One is to make sure that the first paragraph refer to law enforcement, [inaudible] of law enforcement of WHOIS in relation to law enforcement and the second is to remove the last phrase "and others with legitimate purpose" and put "cybersecurity and related professionals" and pass that by Cathrin to see if that changes her overall intent.

LISA PHIFER: I suggest that we split this into two recommendations, being that they are really different recommendations, although they both involve survey.

ALAN GREENBERG: I agree. Volker?

VOLKER GREIMANN: I'm still just concerned that we are including cybersecurity professionals because, as you say, that is a bit of a mission creep because they are not law enforcement, per se, and that's what this [inaudible] is actually dealing with. But I have no objections to, for example, saying that when we are adding the law enforcement section to the first paragraph that we put in related parties at that point because they would be related to law enforcement specifically in a way that they would be empowered in some form or shape, similar to law enforcement. That would open the barn doors to every Jim and Bob who wanted to look up WHOIS and now claims that they are a cybersecurity specialist.

ALAN GREENBERG: Volker, I suggest we keep it as two separate ones and introduce the cybersecurity part in the second one. The reason is the first one is implementable as it is today by simply doing it more. We know what law enforcement is today. So, I would not confuse the first one. That is, they do it on a regular basis, not only wait for the next review team. The second one, introduce it. I think, along the way, we discussed saying that we are expecting the EPDP and follow-on processes to better

define the concept of cybersecurity professionals. So, put the onus on them to define it.

VOLKER GREIMANN: To define it and whether to include them in this.

ALAN GREENBERG: Yeah. Well ...

CARLTON SAMUELS: I can't hear Volker. That's all.

ALAN GREENBERG: Volker said and to decide whether to include them. Well, if we now put it in as a second recommendation, the board obviously has the discretion to say we reject that recommendation or not. To be honest, if implicitly, if the cybersecurity professionals do not do their job properly and cannot feed to law enforcement, then WHOIS is not meeting the needs of law enforcement. So, it's almost implicit in the first part anyway, but we're saying you should actually talk to these people instead of just asking for secondhand remarks from law enforcement who are their quasi-partners. So, I think it's a reasonable thing. We know we can't define it, but we're saying we can't.

CARLTON SAMUELS: Yeah. That's a reasonable thing. I think that's what Suzanne was saying, that they are conjoined. That's why it is a good thing to have the second recommendation laid out as you are pointing out.

ALAN GREENBERG: Volker, can you live with that for this version? Still not the final report.

VOLKER GREIMANN: I mean, there's still going to be a public comment space, so for now.

ALAN GREENBERG: Okay. I think we have closure on this. Lisa, I'll let you make any final comments, and before we go on to the next item, I have something I'd like to add.

LISA PHIFER: Nothing from me.

ALAN GREENBERG: Okay. Somewhere along the way, I think it was Volker said we should replace WHOIS is RDS. I would suggest we standardize on WHOIS/RDS. The WHOIS is still there. We still have a whois.icann.org. Users are going to – people are going to refer to it as WHOIS for [inaudible] when we change the words. So, to make sure that everything we talk about is understandable, I would suggest we use something like WHOIS/RDS or RDS/WHOIS and be consistent about it.

CARLTON SAMUELS: And just amend that WHOIS is missing the “I”.

ALAN GREENBERG: Ah! 15.1 is missing an “I”. Correct. Is using the joint term sound reasonable? Lisa, you have your hand up.

LISA PHIFER: Yeah. Just to note that in our terms of reference, we used RDS and then in parenthesis WHOIS, I believe. So, if we adopt – whatever the terminology was in the terms of reference and just be consistent.

ALAN GREENBERG: That’s fine.

LISA PHIFER: And thank you for pointing that out. That’s been bothering me, too.

ALAN GREENBERG: Back to you, Lisa.

LISA PHIFER: I think we’re up to consumer trust and that would be over to Erika. Erika, if you’re talking, you’re on mute.

ERIKA MANN:

Mine takes a second, sorry. I just had to go back and switch computers. Yes, what I have done after the discussion we had about this topic in Brussels, I reviewed the question whether it's necessary to have recommendations for this particular chapter. My conclusion is if we would go for recommendations, we would need quite detailed recommendations and I don't believe this is going to be helpful because the nature of the topic consumer trust is quite late, and in particular quite late in the ICANN WHOIS environment.

And two, and so far, anything would be highly speculative and I wouldn't like it, so I picked up [inaudible] in the meeting we had in Brussels, how about turning this into observations? That's what I have done here.

So, the first one is not new. This is a topic we debated already before, so there's nothing really new. I just turned this into an observation instead of a recommendation. The second, I took the – which came actually out from the question which we raised at the beginning about how transparent are resellers and how much is actually information they provide that's actually visible. So, when I reviewed what resellers are offering online and I reviewed in connection ICANN and registries and registrar work as well, I found the information about WHOIS and related information to consumers as relatively poor on most of the pages. That's why I make the second observation. So, these are now two observations and no recommendations. You want me to read them or can you read them yourself? Have I lost you all or what is happening? I can't hear.

CARLTON SAMUELS: We're still with you. Just reading.

ERIKA MANN: I [inaudible] just can't speak not well the second observation which is the only one which is new.

LISA PHIFER: Sure. The first observation is about lack of reseller transparency and that there was previously a recommendation in Erika's draft. The second observation is what pages from ICANN's registries, registrars, resellers often offer little, easily readable information for consumers in relation to the use or non-use of WHOIS data. We recommend that after the implementation of the new WHOIS system more attention is given to ensure that these web pages cover relevant information for consumers. Erika, I put in the chat I struggle a little bit with are these issues that have been raised with no recommendations or are these recommendations? The reason that I ask the latter, even though you said they're not recommendations, is that it says we recommend.

ERIKA MANN: Yeah. I know, Lisa. I was struggling about this myself. But that's not a recommendation like an additional recommendation. So, it's more pay attention to this topic and look into it and find a solution to it. I don't mind turning this in a recommendation, but I think it would be such a [light-touch] recommendation that if it is [inaudible] will not make a difference. That's why I'm a little bit cautioned here in not calling it a recommendation. Not each word, our sentence, which covers the word

recommendation really. It's in [inaudible] sense a recommendation. It's more like we recommend to do this. It doesn't mean you can translate it into an operational plan within a period of time you can [oversee]. That's why I'm a little bit hesitant to call it a recommendation. But happy to follow whatever path you all would like to take.

LISA PHIFER: Alan has his hand up.

ALAN GREENBERG: Thank you. Can I suggest that we remove "we recommend" comma, and replace it with "The WHOIS2 RDS Review Team believes that" and leave it at that.

ERIKA MANN: Yeah, that's fine.

ALAN GREENBERG: Leave it at that. See what comes out of it and observation two may well become part of a recommendation under the outreach documentation part, depending on what kind of feedback we get.

ERIKA MANN: Yeah. Okay, that's fine. Noted.

LISA PHIFER: If I can jump in here. By “implementation of the new WHOIS system” I assume you mean after implementation of GDPR.

ALAN GREENBERG: Yes.

LISA PHIFER: I believe that in order to not confuse the readers, that if these are not recommendations, they should be framed as issues under the issues section. I know that’s just a documentation suggestion, but I think that it would be consistent to call these issues that are raised but with no specific recommended action.

ALAN GREENBERG: Unless Erika disagrees, I feel fine with you doing that move.

ERIKA MANN: I’m fine with it. I think Lisa is spot on. That’s what we will do.

ALAN GREENBERG: Then let’s move on. Someone was going to say something? Dmitry?

DMITRY BELAYSKY: Yes. [inaudible] I think we should prioritize that speaking about new WHOIS system. We mean just a [inaudible] system and not, for example, RDAP.

ALAN GREENBERG: Well, I think that is going to imply RDAP. I would say post-GDPR—

DMITRY BELVAYSKY: Well, post-GDPR, yes.

ALAN GREENBERG: Post-EPDP.

DMITRY BELVAYSKY: Yeah. Okay. But, we should say clearly what we agree that new WHOIS system.

ALAN GREENBERG: I think all Erika was trying to say there is don't do it now. Wait until the dust has settled.

DMITRY BELVAYSKY: Okay. Thank you.

ERIKA MANN: I like Alan's second proposal, post-EPDP. I don't really want to use the word GDPR in all of our context. [inaudible] it's just a discussion which it relates to one law in one particular [inaudible]. I think we have to be careful. Even if it's correct in the history of what triggered it, I don't

believe we should write it down everywhere. So, I [inaudible] post-GDPR.

ALAN GREENBERG:

Look, the board is not going to adopt these for 11 months from now or close to that. We don't know what the world is going to look like then. I don't think we need to agonize over these particular words. The dust may be a little bit more settled in December when we have to finalize this.

ERIKA MANN:

Yeah.

ALAN GREENBERG:

Next item, please. That is me. [inaudible] research that was better than mine identifying that there were indeed some vague words I think in the registrar agreement about how to safeguard data. I did a much more thorough study than I had previously obviously and found that all three agreements, registrar, registry, and escrow agreement talk about how to protect data. They use three different sets of terminology. One of them talks about industry standard. One talks about – I don't even remember. One talks about – the registrar agreement talks about use reasonable, take reasonable precautions. The registry says take reasonable steps and the escrow agreement says use commercially reasonable efforts and industry standard safeguards.

In terms of breach, the registrars do have a requirement to notify ICANN of breach. Registries and escrow agreements do not. So, in light of those

varying things, I did a reword of the recommendation. This is documented earlier in the report. ICANN board should require that the ICANN Organization in consultation with data security experts ensure that all contracts with contracted parties to include privacy-proxy services when such contracts exist include uniform and strong requirements for the protection of registrant data and for ICANN to be notified in event of any data breach. In carrying out this review, the data security experts should consider to what extent GDPR recommendations which many, but not all, ICANN contracted parties are subject to, could and/or should be used as a basis for ICANN requirements. ICANN board must either negotiate appropriate contractual changes or initiate a GNSO PDP to consider [effecting] such changes.

I've tried to take into account the varying wording that we had on whether GDPR should be used as a model or not. I didn't say use as a model, but I just said consider to what extent it should be used. And instead of talking specifically about the language we should use, simply say use uniform and strong requirements for protection. Volker?

VOLKER GREIMANN:

Yes. Just one small question. Should we maybe insert a word like significant or major or something before data breach? Because a data breach can be many things. A data breach could even be a registrant having [inaudible] third party outside the system of the registrar or contracted party in this case. So, should we maybe clarify what we mean by data breach or what level of breach we are looking at for any such notification requirement?

ALAN GREENBERG: Let me ask a question before I answer it. Do things like GDPR or other national legislation talk about the level of breach when they talk about reporting requirements?

VOLKER GREIMANN: Yes, [inaudible].

ALAN GREENBERG: Okay. Then I would suggest that we—

CARLTON SAMUELS: Based on [inaudible].

ALAN GREENBERG: Sorry, that was Carlton saying something?

CARLTON SAMUELS: Yeah. I was saying data breach is all down to the individual, Alan. It's not qualified. A data breach is a data breach, so [inaudible] impacted.

ALAN GREENBERG: So, we have one person saying, yes, they're qualified, another person saying they're not. I think that goes along with what I was going to say. We have a queue, but let me make a suggestion and others can comment on it. I think we should put that question onto the data

experts to consider what level of breach this would apply to. Erika and then Dmitry.

ERIKA MANN: I don't understand the second paragraph at all. The first I believe is totally clear. The last one as well. But the second ... So, what is the review? What is this referring to? What am I missing?

ALAN GREENBERG: Okay. You're talking about the paragraph that—

ERIKA MANN: And the second one, the reference to the GDPR. So, [why] is the GDPR added in here in this context?

ALAN GREENBERG: Okay. Thank you. My original recommendation was silent on it. Volker suggested that since many contracted parties already will have to honor GDPR that we should consider modeling any rules we have on GDPR. After I put those words in, Volker came back and said, "Well, yes, but many people are not subject to GDPR. Do we want to impose those particular rules on them?" So, what I did was try to find a middle ground saying consider the GDPR regulations as a basis for what we tell people, but we're not trying to be prescriptive for whether it should be used or not. I'm happy to remove the whole thing or leave it in. Dmitry is next.

ERIKA MANN: [inaudible] remember the discussion we had in Brussels, but I would really recommend to just delete the second [inaudible]. It makes no sense.

ALAN GREENBERG: I'm happy to do that if others are. Dmitry? Then we'll go to Volker for his comments. Dmitry?

DMITRY BELVAISKY: Well, I think we should have a consistent policy with ccNSO regarding notification of data breach, and so if we ask [inaudible] first about scale of data breach we need to identify, I think we should ask the ccNSO [inaudible]. Thank you.

ALAN GREENBERG: I don't think we have control over what ccNSO members do, however, and I'm sure there is no consistency among them. So, I'd be reluctant to go in that direction. Volker, are you happy if we just remove that middle paragraph?

VOLKER GREIMANN: Yes.

ALAN GREENBERG: Okay. Consider it removed. Carlton?

CARLTON SAMUELS: I was about to tell you, Alan, that ICANN is a telephonic operation and [inaudible] probably the most [inaudible] yet. I will dare to say that ICANN as a data controller will be subject to California law.

ALAN GREENBERG: In that case, it makes the job of the experts really easy. My personal understanding is that ICANN is subject to California law for data breaches that occur within ICANN's domain. I don't think it applies here, but I really don't believe we need to have that discussion. Lisa, we're going to remove the middle paragraph altogether and we will modify and I will provide you with some words, modifying it to specify that the level of data breach should be the subject of discussion with the experts. Carlton, did you have something else to say?

LISA PHIFER: It sounds like we're closed on this one. I see Alice is typing in the action. Can we move back to strategic priority since we skipped over that one in case Cathrin came back?

ALAN GREENBERG: Sure.

LISA PHIFER: I just wanted to point out she has incorporated the three recommendations that were agreed to at the face-to-face meeting. I don't believe the summary text of the recommendations has changed here. It's the supporting details that she's fleshed out in her draft

report. So, unless there are specific comments people would like to make at this time, my suggestion is to read the updated strategic priority report and make sure you're comfortable with the rationale given.

ALAN GREENBERG: In recommendation two, assign responsibility. Does that work without having a subject? Without saying two? I think it's okay. It's responsibility as a noun there. I think it's okay. I'm happy with these. Any comments? Back to you, Lisa.

LISA PHIFER: I think that brings us to executive summary, Alan.

ALAN GREENBERG: Alright. I drafted a significant part of it and I was stuck at one point trying to decide does the executive summary need a brief description of each of our 13 or whatever the you is subgroups? Not would they recommendation it, but what each of them are covering, because the executive summary otherwise ends up with – we're saying we're going to append the executive summary in a second section the recommendations, but it doesn't really talk about – if there are no recommendations out of an area, then it's completely silent.

So, although it will add a significant amount of text to it, I think it's going to be a better overview to people who are trying to find out what we did to give a brief summary of the issues looked at by each of the subgroups. That preferably without actually restating the

recommendations out of WHOIS 1 but trying to summarize the overall subject matter.

I had asked Susan what she thought about that and she hasn't been able to get to it yet. But, having thought about it again, I think not having it is going to make it far too vague what we're doing and we'll leave out from the executive summary any mention of things that don't have follow-on recommendations coming out of it. So, that's where I sit right now and I'm happy to try to complete it today if that, indeed, sounds like a good way forward.

I've tried to make the whole executive summary stand completely on its own, so it should make – just like the executive summary from the first WHOIS Review Team, it doesn't presume everyone knows everything about WHOIS to start with, but spends a bit of time at the beginning trying to say what is it we're talking about and then go on to the details. Carlton, please go ahead.

CARLTON SAMUELS:

Yes, Alan, I agree that it will probably assist in making more better sense, contextual sense, of the recommendations. I would just caution that because you're going to have an extensive methodology portion, you just probably need to have a few [inaudible] that cover the subgroups and not go too deeply into what they do or how they did it.

ALAN GREENBERG:

Yeah. That part, I think I already did. Susan, if you've had any chance to look at it, make some comments now. If not, then unless you have an

objection, you can pretty well ignore what I sent you and wait for the next version. Susan?

SUSAN KAWAGUCHI: I just have not had time, nor the brain cells, to do it.

ALAN GREENBERG: That's fine.

SUSAN KAWAGUCHI: I will wait for your next one and then turn it fairly rapidly.

ALAN GREENBERG: Okay, thank you. Done. Back to you, Lisa, or I'm not sure what we're doing next.

LISA PHIFER: Actually, I'll give it back to Alice for the face-to-face meeting in just a moment. Just to remind you all, though, as you're taking your last cut at these drafts, those of you who have action items to make additional edits, get those back out to the review team so that in our next call next Monday we'll be in a position to raise any final concerns about the entire document and not just these one-liners for the recommendations.

ALAN GREENBERG:

Okay. Thank you. Before we turn it over to Alice, I'd like to say just how pleased and perhaps surprised I am that as much of the work that we've committed to do was actually done. What we committed to doing out of the Brussels meeting was rather ambitious given that normally it takes a week for people to somehow get back into their regular life, catch up with what they missed and get back to start doing things. I was really pleased to see how much effort was put into this. Thank you. Back over to you, Alice, please.

ALICE JANSEN:

Thanks, Alan. So, this will be very brief. I just wanted to [inaudible]. We have a request for input on the face-to-face meeting [inaudible] four potential conflicts. So, we've outlined the dates that do not work for the meeting [inaudible]. But we want to hear from all of you whether you have any conflicts in the November-December timeframe that we need to be aware of for planning purposes. So, if you haven't had a chance to submit your input yet, please do so by tomorrow 23:59 UTC and then we'll compile all the input for next steps. Any questions?

ALAN GREENBERG:

My only comment is that I'm most comfortable at this point with early December, that I think we need as much time as we can to process the recommendations – the outcome of the public comment and perhaps actually get a fair amount of the outcome of the public comments addressed in teleconferences and be in a position so by the time we leave the face-to-face meeting we may have a document close to ready to share.

To the extent that we – and we’re talking about a three-day meeting at this point, with the understanding that we may well adjourn for six hours or three hours or something and have people do some rewriting as we go ahead and get to the point where we really have a document. Once we leave a meeting that’s close to Christmas we can’t assume a lot is going to be done. Although we, in theory, could go into January to do the final cleanup, that obviously is not optimal.

Part of it, of course, and I’m not going to put her on the spot right now, part of it is whether we can convince Lisa to participate in that meeting or work before or after it. That may cause us to rethink exactly how we’re going to do the work, depending on what the answer is. I don’t think we can ask or expect an answer right now, but that’s going to be one of the considerations. Erika, did you want to say something?

ERIKA MANN:

Yeah, but I believe you clarified it because my question was can we narrow the time down so that we have a greater understanding which month or which week we are talking about? But I got your point, so that’s why I let down my hand.

ALAN GREENBERG:

The comments will end at the beginning of November. Staff has said that they’ll probably be able to do something in a week or so, depending of course on what the volume of comments is which we cannot control. My inclination is to target somewhere around the beginning of December, which still gives us a bit of time before the holidays start, and if necessary, we can also run into January to do the final editing and

cleanup. Right now I think the report is – Lisa has done a huge amount of work on it, but there’s still ... There’s always going to be style differences, but I think the level of consistency still needs some work and make sure that the language is clear in all cases. I’d like more time rather than less to do the final editing. But I don’t want to rush it too much to make sure that we have had a chance to process the public comments.

ERIKA MANN: Yeah. Thanks.

ALAN GREENBERG: Back to you, Alice. At this point, we need to find out what times are not good. Volker has just put a note in saying he is not available the 27th to 29th. Alice, back to you on getting input for other times that we need to block out.

ALICE JANSEN: Thanks, Alan. What we’ll do is we’ll compile all the input received from team members for the leadership call on Wednesday and then we’ll decide on next steps then, because as you know, we’ve got a 90-day deadline for meeting requests and so on. So, thanks, everyone for that.

So, the next item we have on the agenda is AOB. There we go. Under AOB we wanted to flag that the meeting reports for Brussels made face-to-face meeting [inaudible] was approved by the leadership and submitted to the full review team for any comments or edits that anyone may have. We suggest sending your edits or comments by

August 10th at 23:59 UTC, so this Friday. Wanted to know if that works for everyone. I'm not hearing any ...

ALAN GREENBERG: I always prefer having the weekend, but we had a plea to allow the weekend for people reviewing it before the meeting, so I can live with that. How many people will actually have a chance to review it is going to be a challenge.

ALICE JANSEN: Okay. So, what about August 13th as a deadline then? I think that will address the [inaudible] for the weekend.

ALAN GREENBERG: Well, if that's the deadline, what are we doing next week? What are we doing on our meeting next week? You won't have had a chance to assimilate anything.

ALICE JANSEN: This is the meeting report for face-to-face [number three]. It's just a—

ALAN GREENBERG: Oh, sorry. I thought you were on the next one.

ALICE JANSEN: No, no, no.

ALAN GREENBERG: Meeting report I think is fine. Obviously, if people can get them by Friday, that's better.

ALICE JANSEN: Perfect. I'll jot that down. Go ahead. Yes, Lisa?

LISA PHIFER: Thanks. Just to point out obviously our work is ongoing. We're refining some of these recommendations. So, when you review the meeting report, it will give the text of the recommendations as agreed at the meeting. I think that we not try to continually update the meeting report to track ongoing work, but just to agree that accurately reflects what we discussed at the meeting. We can add the caveat that work is ongoing.

ALAN GREENBERG: I agree.

ALICE JANSEN: Thanks, Lisa. Another item we had under AOB is the objective relative to the potential amendments to section 4.6e, the ICANN bylaw. There's an objective in your terms of reference that is tied to this bylaw language and essentially you're to suggest any change, amendments, or removals from the bylaw language of this review. The leadership asked us if

anyone that added any suggestions on items they'd like to see included under that.

ALAN GREENBERG:

Thank you, Alice. I think we've pretty well decided we're going to remove the section on OECD. It has been deemed to be obsolete and is redundant with the section on safeguarding registrant data. I haven't heard any other suggestions on the bylaws, but obviously it's something we need to think about. So, you can put an action item for me to put in some words under that section to talk about OECD. I vaguely remember I wrote some words already, though I cannot for the life of me remember where I wrote them. But, in the last couple of days, I did write some words related to or done [inaudible] obsolescence. If anyone is reading them, tell me where I wrote them.

ALICE JANSEN:

Thanks, Alan. Great. Anyone else have any other business you want to touch on before we close the call?

ALAN GREENBERG:

Is it possible to quickly put up our timeline, the one-page description of all the checkpoints along the way over the next month? Is that something you can find quickly?

ALICE JANSEN:

Yes, hold on.

ALAN GREENBERG: Alright. So, next week we have another meeting to do a further review of any comments. Now, when are we likely to see a consolidated document come out, pulling together all of the bits and pieces we have now? Lisa, are you doing that this week or are you still asking us to work on our individual sections?

LISA PHIFER: I understood the plan was for team members to be reviewing the individual sections for Monday's call. Many of you have actions to update your individual sections, so I think that's the only practical way to move forward. If you want [inaudible] to try to pull together consolidated document this week, we could, but I'm afraid it would be a bit piecemeal.

ALAN GREENBERG: No, I think that's fine. Are the documents on the Wiki being updated to reflect the most current document at that top of the pile in each case?

LISA PHIFER: Yes, they are.

ALAN GREENBERG: Okay. So, we don't have to go through. We can either use the latest e-mail on the section or the Wiki.

LISA PHIFER: Correct.

ALAN GREENBERG: Excellent. Then I think perhaps a reminder going out now as to what people are supposed to be doing over the next week and I think we're done. Any further comments before we do a review of action items? And we're running a little bit late today, but we should be finished shortly. I see no hands, so back over to you, Alice.

LISA PHIFER: Alan, just one more thing, which is although it's not displayed on the screen in front of us, Friday the 10th of August is the deadline for those of you who have actions from today's call that have any revised text out.

ALAN GREENBERG: Perfect.

ALICE JANSEN: Alright. Thank you. So, in terms of action items, reminder to Volker, Stephanie, and Chris to submit their revised statement of interest as soon as possible.

Stephanie to [inaudible] anything new subgroup report by 23:59 UTC today. If deadline is not met, [inaudible] for inclusion into the draft report.

Data accuracy plan and annual report to be reviewed next week.

All review team members to issue all drafts and be prepared to raise any final edits on Monday's call.

Volker to complete all of the above edits by 23:59 UTC 10th of August.

Review team members to send any edits, comments that they have on the Brussels meeting report by August 13th 23:59 UTC.

ICANN Org to send reminder on homework assignments to the list.

On outreach, Alice modify 3.1, 3.2 to imply an ongoing action.

On compliance, Susan to incorporate a note about [inaudible] being under review and community input is welcome.

On privacy-proxy services, ICANN Org to apply editorial change. The ICANN board should recommend to the next review team to [inaudible] and also 12.1

On common interface, Volker to update recommendation 11.1 and .2 to reflect that compliance monitor results for patterns when they indicate non-compliance and take appropriate action. Volker to refine the wording and Volker to refine supporting text for recommendation 11.2.

On IDNs, ICANN Org to apply editorial change to ICANN board to recommend [inaudible] 12.1 and 10.1.

[inaudible] annual reports. ICANN Org to flag portion of transcript [inaudible] that pertains to Alan's rationale on proposed alternative for rec 15.1. Lili to clarify what annual report refers to. Alan's alternative

[inaudible] for recommendation 15.1 is agreed by those on the call with typos corrected and additional refining on annual report.

Law enforcement needs. On [inaudible], Cathrin to update the effectiveness of WHOIS2 whereas the effectiveness of WHOIS [inaudible] law enforcement. Cathrin to remove the phrase [inaudible] processes and use cybersecurity and related professionals instead. Cathrin to [inaudible] second bullet into separate recommendation, LE point two, which refers specifically to cybersecurity and related professionals and explains how this is related to meeting law enforcement needs.

On consumer trust, Erika to move observations under issues section. Erika to delete recommend, replace with the review team believes. Erika to replace new WHOIS system with WHOIS after GDPR implementation.

On safeguarding registrant data, Alan to remove second paragraph, i.e. in carrying out ICANN requirement. Alan to modify language to specify that level of data breach should be the subject of [inaudible] data security experts.

Strategic priority, the recommendations are agreed as presented. No edits.

Draft report. ICANN Org to send the RDS WHOIS2 throughout the draft report consistent with the terms of reference. And on amendments, Alan to project [inaudible] to the OECD. Is there any need for an edit or comment?

ALAN GREENBERG:

I think you lulled everyone to sleep, I'm afraid. We've never had such a long action item list from a teleconference. We're a few minutes over and some of us have some other things we're late for at this point. At least I do. So, thank you very much for the call. I think it's been a very productive call. Look forward to a busy week and another call next week. Bye-bye.

ALICE JANSEN:

Thanks, Alan. Bye-bye.

[END OF TRANSCRIPTION]