
BRENDA BREWER: Hello, everyone. Welcome to RDS WHOIS2 Plenary Call #32 on 18 June, 2018 at 15:00 UTC.

Attending the call today is Dmitry, Lili, Alan, Volker, Cathrin.

We have no observers at this time.

From ICANN Organization we have Alice, Brenda, Amy, and Lisa.

We have apologies from Susan, Chris, and Jean-Baptiste.

Today's call is being recorded. May I please remind you to state your name before speaking? Alan, I'll turn this meeting over to you.

ALAN GREENBERG: Thank you very much. And if we could have the agenda on the screen. And today, our plan once we start the meeting is to review the ICANN62 plans, start looking at specific recommendations and status of three of the subgroups, face-to-face meeting, plenary calls, post-ICANN, decide which calls we're going to cancel and which do we have, and Any Other Business. If there's no desire to add Any Other Business or change the agenda – I see no hands, we will accept it as displayed. And I'll first ask, are there any updates to statements of interest? And I see none, and we'll go on to the first item of ICANN62 then. Who will be taking that one?

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

ALICE JANSEN: I am. Thank you. So just before we get into the engagement session slide deck, we'd just like to remind everyone that the session is on Monday, June 25th at 5:00 p.m. local time. There will be remote participation for those of you who will not be in Panama in person. The deadlines we have set to finalize the engagement deck are as follows: today, the Review Team should review the slides during the call and provide any edits that you have. These were [inaudible] to you on Friday, so hopefully you've all had a chance to go through the slides.

This Wednesday, we'll have a leadership call where the leaders will approve the slides or request any additional changes, and then by Friday, we will submit the presentation to the Meetings Team so it's up and ready for the show. So with that, we'll just move to the slide deck, and Lisa, if you'd like to take it over from here, that would be great.

ALAN GREENBERG: If I may interrupt for a moment, we did ask anyone who is going to be in Panama if they wish to take the lead on their own sections. I believe Carlton, I think, was the only one who said yes, but we are still of course welcoming other people to present. Please go ahead, Alice.

ALICE JANSEN: Thank you, Alan. Lisa, are you able to walk us through the slides?

LISA PHIFER: Yes, I am. Thanks, Alice. What was distributed with meeting materials are some draft slides that we've put together as the beginning point for your ICANN62 community engagement session, and I'll give you just an

overview of what is in here and note that you'll have additional time to review the slides in their entirety, and of course, specifically the section that belongs to your subgroup.

So the agenda that previously was agreed to for the engagement session was approximately 40 minutes, and you'll see that we have quite a few slides. So we may be challenged to present this number of slides in 40 minutes, but we'll have to think about how we can reduce what we try to cover and still fit within that container or close to it.

But the agenda is a brief introduction of the Review Team itself and objectives and methodology, milestones, and then the bulk of the slide deck are the summary of the subgroups' findings and draft recommendations, leaving ample time for Q&A and community feedback as part of this session.

The presentation section of the agenda is simply an introduction of the Review Team, who the members are, the fact that this is a bylaws-mandated review, and as you can see on the slide, just some idea for the audience of the constituencies that nominated you all to participate in this review.

The objectives and methodology we wanted to keep brief, but we enumerated the Review Team objectives. You'll note there's one action item on this slide for Alan who has identified in the Leadership Team meeting last Wednesday that we might want to revise the brief description of the second Review Team objectives. But these are the Review Team objectives from your Terms of Reference, just in a shorter, bulleted form.

ALAN GREENBERG: Yes. If I may interrupt, the change is that we did not and are not doing an overall zero-base review of RDS, nor do we plan to in light of all the changes. But we are looking at changes that have happened since the last review and making sure that if there's anything that pops up there, that is relevant to looking at the overall [effectiveness] that we identified. Thank you.

LISA PHIFER: And now we just have to fit it in one sentence.

ALAN GREENBERG: Yes. And I have a to-do which I will get done soon after this meeting.

LISA PHIFER: Alright. And as with anything, when you try to boil it down to bullet points, sometimes the full context doesn't come through. But whoever presents this slide can add amplification to the brief bullet points here. We also included the list of non-objectives, again from your Terms of Reference. This is in reference to the items that you all agreed not to do an in-depth review of.

And Alan, we did attempt to reflect the feedback from the leadership call on the last two bullets of this slide. If that doesn't address the concerns that you expressed, we can take another crack at those last two bullets. But the idea is to address early on in this presentation what the review is not attempting to cover, at least in-depth.

ALAN GREENBERG: Okay. Thank you.

LISA PHIFER: And then the methodology being used, that of course it is a transparent review, observers are welcome to listen in on any call, including this one, that you worked with consensus building to agree on your Terms of Reference and will do so to agree on your recommendations, that the findings that you developed were informed by briefings you received from ICANN Org. The first step of each subgroup was to try to pull out the facts, do an analysis of those facts and identify issues which then you formulated recommendations when recommendations were appropriate, that not all subgroups did in fact produce recommendations.

And then an introduction to our structure of subgroups and how they're broken down along the lines of the first WHOIS Review Team's recommendations as well as the additional objectives identified in the Terms of Reference. And you'll note here that we included the subgroup on contractual compliance actions, structure and policies which was originally formed but then combined into the Compliance Subgroup that was already looking at recommendation four from the first Review Team.

So this is all the background information, just a snapshot of our milestones and where we are, at least at the time of ICANN62, just in advance of the third face-to-face meeting in Brussels, and that there will be a draft report available for a formal public comment period,

currently targeted for August. The public comment period would then be open throughout September, I believe.

Now, that brings us to the bulk of the slide deck where we presented the subgroup findings and draft recommendations. And here we've added a callout box to set context before we go into any of the subgroup findings, which emphasizes that these are all draft, that they're agreed to by subgroups except where you choose to call out that the subgroup did not reach agreement on a draft recommendation, and that they don't yet reflect the consensus of the full Review Team. If there are any changes to the wording in that callout box – I'm aware that this is the first time even the leadership team has seen that one. It resulted from the preview that we had in the leadership call last week.

And I'm not going to walk through all of the remaining slides, but I'm going to walk through one section just to give you a feel for what all the subgroup sections look like. I'll start with strategic priority. In each subgroup, there's a presentation of either the recommendations that the subgroup was looking at or the objective from the Terms of Reference from the subgroups that looked at anything new, consumer trust, safeguarding registrant data and law enforcement needs.

But there's sort of a context setting slide for each subgroup, then there is a slide or part of a slide that lists the major findings of the subgroup, so in this case, these are the major findings in the last draft of the strategic priority subgroup report, which I know is still somewhat in progress, and so these may need to change before this deck is finalized.

Then there's a statement – as you see at the top of this slide – that based on the analysis, the subgroup finds that either the recommendation has not been implemented, has been partially implemented or has been fully implemented. And again, this comes from your subgroup report and any statement made in the subgroup report to explain – in this example, why the recommendation was only partially implemented would appear here as an explanation.

Then following that, there's a list of issues that are called out in your subgroup report, and then finally, a slide that calls out any recommendations that were made by the subgroup. Again, I want to emphasize that these are drafts produced by the subgroups and still subject to review and agreement by the full team.

So that's the general layout of each of the subgroup sections. Obviously, some subgroups don't have recommendations, and for the subgroups that have not gotten quite as far, notably the law enforcement needs subgroup, there is a placeholder to just describe the survey that you plan and not any findings. So with that, I think I'll open it up to questions, comments.

UNIDENTIFIED MALE: [inaudible]

ALAN GREENBERG: I'm not sure who that is, I think it's Carlton. I have a question. Carlton, you need to be muted. If we can mute Carlton, please. Lisa, you implied we're going to be talking about all of the recommendations here, but

you only have a few of them in this slide unless I'm missing something. Are we going to be adding something? I'm not quite sure I understand.

LISA PHIFER:

Yes, good question. So the recommendations produced by each subgroup appear in that subgroups section. So strategic priority only produced one recommendation, but if we look forward to – let me just find an example. Here we go, the outreach subgroup that you were the rapporteur for, Alan, produced two draft recommendations and so they're both listed on the slide and the section for your subgroup.

ALAN GREENBERG:

Okay, I misspoke. I was not paging through the slides properly. I now see they're all there. My apologies. I won't tell you what dumb thing I was doing.

LISA PHIFER:

And I should note, this is our best crack at pulling out information from the subgroup reports as they existed on Thursday or Friday, so there are several places where you'll see some red text because I couldn't find the information in the subgroup report when I knew it was being actively updated.

For example, in the privacy proxy slides, I included some current texts, but knowing that, Volker, you're updating that subgroup report for compliance, I didn't even try to list the draft recommendations because I knew Susan was actively rewording them and reorganizing them. So

staff will go ahead and fill in those placeholders when the subgroups provide us the missing input.

ALAN GREENBERG:

Thank you. I'll note that we have 40 minutes for this section. We have 65 slides. That means about 30 seconds a slide, and even then it will be tight, because clearly, we won't make 30 seconds on all of them. So the intent is certainly not to read or to explain each slide in detail. The presentation, I hope, will be a useful document for people to use, but we're not going to go over the details, nor could we ever in the time we have allotted.

So just as a guidance for people as you're reviewing it and for those who will be presenting, that this is a superset of what we'll be talking about, but should provide at least all of the details that we need to present, and superset of what we will actually be talking about. But it will be a useful document in its own right for people to review who care enough to go through it in some detail.

Comments, questions? Carlton said, "The audio in this notebook crapped out." However, we were hearing you talk before and we muted you, if you're still listening, Carlton. Not quite sure if that was the problem.

LISA PHIFER:

If there aren't any additional questions, I would just point out that it is this Wednesday, the 20th of June that we're looking for approval of these slides or request a request to change anything. Now, we do still

have a couple of days then until Friday the 23rd when we plan to submit the slide deck to the Meetings Team, but that's a pretty tight timeline. So those of you who find placeholders requesting subgroup information in your section of the slide deck, we're really looking to you to help fill in those placeholders within the next couple of days.

ALAN GREENBERG: Yes, we're looking at about 55 hours from now, because when Lisa says Wednesday, she preferably does not mean midnight on Wednesday her time.

LISA PHIFER: I actually mean Wednesday at the time of the leadership call, which is 15:30.

ALAN GREENBERG: Which again then is about 48 hours from now.

Alright, let's go on to the next agenda item then. And we have status updates, and the first one is outreach, which is mine. I will take that. The analysis – I think we have gone out over this in rough area before, but I'll do it quickly. The recommendation has been fully implemented in our view. It is not necessarily, however, particularly navigable or findable.

Part of the reason is that there are significant problems in the vintage of data. So the portal which was implemented has essentially been done since the review came in, but there are all sorts of other things that

predate it and do not necessarily mesh with it, in some cases give conflicting information.

For instance, the outreach in the portal talks about the new WHOIS vehicle to do lookups. The videos that are in another section still say to go to the older parts of the web, which essentially are different and not as functional as the current parts. And there's a lot of that.

So our recommendation is that essentially, everything be redone, but not be done until post-GDPR and done in a way so that WHOIS, along with other information about registrations – because there's no way you can separate them from a user's perspective, even though in the minds of the ICANN workers, we treat WHOIS as a separate function, that essentially it all be redone, but it be redone in a way that it is useful to a number of different types of communities who may be looking forward.

And I'm not trying to repeat the words in the document, that essentially is where we stand. So that's Recommendation 1. If we go to the next slide which was Recommendation 1, and let's go to Recommendation 2 now.

And Recommendation 2 is addressing the question of outreach. Now, the first At-Large Review Team specifically said to do outreach to parts of the – not the community, essentially to entities that are not part of the normal ICANN ecosystem. Although there are abundant examples of outreach that ICANN has done, virtually all of it is to the specific parts of the community that we already know about. So presentations at ICANN

meetings, at registrar/registry discussions and a lot of other parts of the ICANN ecosystem, but not parts outside.

So the question is, was it a realistic recommendation? The current wording of the recommendation says the community should decide – essentially, which means ICANN should convene a group to look at possible outreach and decide what kind of outreach outside of ICANN should be done.

The question is, that's not a strong recommendation in that we're not mandating that it be done, but – and I notice there's a spelling mistake in demand, or deemed, rather, with two Es – the question is, is it even reasonable to do that? Do we have sufficient examples of outreach outside of ICANN to warrant that this be focused on?

Now, the examples that we have had are consumer protection organizations, both associated with government and private ones, and law enforcement. An example we had [of] GDPR data commissioners, privacy commissioners, was certainly something that would be interesting to hypothesize, if we had done more outreach with them, would we be in a different position today? But we didn't, and we are where we are.

So the question is, are there sufficient examples, perhaps over and above law enforcement and consumer protection, or are those sufficient to warrant this recommendation? And that's where we stand on this. So we need an answer to that. Not necessarily today, but certainly at the face-to-face, to decide, do we include this recommendation or do we not include it?

And I see Volker has his hand up.

VOLKER GREIMANN:

Yes. Thank you, Alan. I think this is a bit of a chicken and egg problem, because while we recognize that there is a problem with outreach to ICANN, we will probably not hear from those that ICANN has a problem of reaching out to, even if we convene a group that asks those people that we do not hear from why we do not hear from them.

I think setting up a group or a public comment period is helpful, but we will probably not get a complete feedback from groups that are currently not participating for whatever reason, because either the outreach towards them is flawed or there are some other problems why they cannot participate or why the outreach to them does not reach the right persons in their organizations or whatever.

I think asking within ICANN who ICANN has a problem to reach out to is a bit problematic, but asking the people outside of ICANN that ICANN has a problem to reach out to will probably also not lead to the right answers. So this is a bit of – I think we should have some more thinking of how this outreach program to find out where outreach is failing can have the right outreach. I think I'm using the word incorrectly. I hope you [get what I mean.]

ALAN GREENBERG:

Yes. Thank you, Volker. I get what you mean, but I think you're misreading the intent, and that clearly means the recommendation should be reworded. The intent was not to have this group – to ask

people in this group, “Should we be outreaching to you?” Because clearly, the people outside of ICANN are not going to be in that group. But essentially, we’re looking for wisdom from people within ICANN or who are people within our ecosystem that we might involve in this, for who else is there out in the world.

As an example, we’ve already come up with consumer protection organizations are groups that might benefit from knowing about WHOIS, assuming that’s relevant in a post-GDPR world. We know there are a large amount of law enforcement who may not be fully aware of these kind of things, and perhaps we should be doing outreach at law enforcement gatherings.

So those are the examples we have. The question is, is it going to be possible to come up with other examples that we know about but that are not initiated by those groups, but since we know about them, ICANN can then reach out to them and try to do outreach?

So the intent is not to ask us, “Do we want to reach out to you?” But to try to identify other groups just because we are knowledgeable people. So my first question was, are there such groups that we know about to increase the example set? And if there are sufficient ones in our example set, then we will say, “Convene this group to try to do further thinking about it.” And I see Carlton has his hand up, followed by Volker.

CARLTON SAMUELS:

Yes, Alan. I hope you’re hearing me.

ALAN GREENBERG:

Yes, we are.

CARLTON SAMUELS:

Wonderful. Yes, [I'm giving] you two examples of why this recommendation is necessary and why I support it. One, in the last three weeks or so, I have had two interactions with different groups on data protection and GDPR issues, and one of the issues that came up in Suriname was that the business organizations there as well as the regulator there – I was in a conference with them where we did this, they were very enthusiastic to hear about how the GDPR issues affect businesses and WHOIS data, which is what we were focusing on.

And just last week, I had another presentation to the CARICOM Secretariat which is a regional political organization, and we were talking to the [Social] Affairs Committee which is all the people who deal with education issues, travel issues and tourism issues, those kinds of things. And they were also not aware of how GDPR issues come down on them.

So I can see a need to have outreach to these groups, consumer affairs issues, they were part of the group in there too, as well as, believe it or not, even telecommunications regulators in the Caribbean region were unaware of how the WHOIS issue intersects with the GDPR issues. And that's why from my experience here just in the last couple of weeks, I would agree with you that we should, A, look to do more outreach to these groups, B, look at adding more named groups to this recommendation. Thank you.

ALAN GREENBERG:

Thank you. I'll notice Lisa in the chat has said, "In light of GDPR, it seems that outreach may be needed to data subjects regarding purposes for which the data may be used. Does this fall into the outreach or future policy development?" I think it certainly falls into outreach. It may well fall into policy development. So I think future data subjects, i.e. registrants, are a potential area we could include in the list. And Carlton, you said – if you have other specific examples you would like, ones that are sort of self-explanatory in their own – just by giving the name, that might be useful if you could toss those in. And we have Volker.

VOLKER GREIMANN:

Yes, and one thing that we might want to be cautious of that we – while not addressing it directly in the language of our recommendation but trying to present it in the way that we phrase it down the road is that we try to head off any potential cronyism or something [inaudible] that ICANN may undertake for outreach programs. We've seen certain outreach programs in the past where millions of dollars have been spent on consultants that are in some way, form or shape related to ICANN or made up of people in the community that then do certain outreach programs that are very low on efficiency but very high on cost, and that may be something. It's not what we're intending.

We do not want this as an excuse for ICANN to distribute money to people they like – or not like, but who argue very well that they can provide a service that they actually can't, or [inaudible] I don't know how [to best] do that, but that's something I'm concerned about, that this turns into a money spending machine.

ALAN GREENBERG: Volker, I'll leave it to you to come up with wording where we can actually say that. But I don't think anyone's going to disagree with you. Carlton, please.

CARLTON SAMUELS: Yes. I'm just endorsing Volker's comment here. I couldn't find a better label for what needs to be done, because one of the things – as probably Alan knows, one of the cheapest ways that ICANN [inaudible] outreach is with what we call the CROP program, and for end-user outreach through the At-Large Structures and so on.

Over time, that has shown to be probably the best use of a dollar in the ICANN environment, but those kinds of programs are now on the knife with this new budgetary alignment, and it is something that I feel – as Volker [used] this – we should make sure – it is important for us to say what Volker said. We have low on efficiency, high on cost outreach, is not considered to be a good way to address these things. Thank you.

ALAN GREENBERG: I will try to include the phrase “cost effective.” I don't want to get into a discussion of CROP here, but clearly, sending people halfway around the world or halfway around their region, or even getting on to a plane at all and talking to 12 people or 30 people is not a cost-effective way of doing this. It's got to be done on a wider scale than that. So I'll try to work some words into it.

Lisa, I'll probably do an update of the draft report, and then you can just pull those words right out of the slide. Lisa, sorry, you had your hand up but I may not have noticed you earlier.

LISA PHIFER:

Thanks. I just want to make sure that we capture the agreement correctly. So it sounds like agreement has been reached that this outreach Recommendation #2 should remain but should be updated to list some of the outreach targets that have been identified here, including GDPR data subjects, and note that it's cost-effective outreach.

ALAN GREENBERG:

Yes. I'm not sure we've identified any others. Other examples are welcome, but I will update it, remove the red, and at this point, I think we can determine we're keeping it in. But I will do some rewording on it, and hopefully it'll be clearer going forward.

Let's go on to the next slide. I think that's it for this section. Next, we have data accuracy. Lisa, are you going to take us through it, or did we want to go to Lili?

LISA PHIFER:

We can go to Lili.

ALAN GREENBERG:

I started talking on mine, but I'm not sure that was the intent.

LISA PHIFER: It is. And actually, I believe we were hoping Lili would speak to this.

ALAN GREENBERG: Okay. Lili, if you can speak. Or if you weren't prepared, we can go on to another one and we can come back to you.

LILI SUN: It's fine, yes. I can [inaudible] now. Can you hear me?

ALAN GREENBERG: We can hear you.

LILI SUN: Okay, so I just provide some materials about the [definition] or interpretation about what accuracy means. I believe all the Review Team members have seen some back and forth avenue of communication between me and Volker. We have different ways to define what accuracy really means, so I just here provided all the materials. I shared previously in the mailing list about what I based on my analysis and what's my definition about accuracy here.

As you can see on the screen, I found at least two supporting points for the data accuracy definition [online]. One is about the 2010 NORC study, so you can see on the screen what's the definition, what's the criteria about to what extent WHOIS record to be considered as accurate. So the core of the accuracy is about the WHOIS information is compatible. So this is the first criteria. The second criteria is about that

it will correspond to the registrant. So I believe this is the core or essence for what accuracy means. Next slide, please.

And also, since ICANN decided to endorse a WHOIS accuracy reporting system to proactively identify inaccurate WHOIS records and refer to the [registrar's] work on it. And it clearly defines three phases. Phase one will focus on syntax accuracy, the second phase will focus on the operability accuracy, and the phase three – not started yet – will focus on the identify accuracy, [inaudible] included the identity accuracy, it also refers to the essence of the accuracy, that means the WHOIS information needs to correspond to the registrant.

So this is the second supporting point about what accuracy means. Next slide, please. And also, I found on the WHOIS microsite, there is some education document for the general public or the registrants about what are the responsibilities of the registrant. So when you register a domain name, you must give your registrar accurate and reliable contact details, so it should be accurate and reliable.

And also, on the WHOIS micro website there is also a definition about what accuracy means. See here, here is an example. Even when the WHOIS record is valid and a [viable] name and address showed, it's not necessarily accurate. For example, if it doesn't correspond to the person registering, managing or owning the domain name, it's still an inaccurate WHOIS record.

So I believe all the material here clearly spells out what accuracy means, so I am here disagreeing with Volker's comment that the accuracy means just contactability. It still needs to refer to the registrant. So I

believe all the major divergence between me and Volker is how to interpret the accuracy, and that maybe the further argument is generated from the definition. So I'm just providing all my findings about the accuracy, what accuracy means and the definition regarding WHOIS micro website here. So maybe we can have an open discussion to agree with the accuracy, what accuracy really means.

So, any comments? Maybe Volker, I remember Volker mentioned [inaudible] that he reached out to some first Review Team members, and his point of contact mentioned that the intention for the accuracy is about contactability, but I didn't see some official confirmation. So, do you have any comments on this, Volker?

VOLKER GREIMANN:

Well, first of all, I have to study the references here and how they affect the recommendation made, but my communications with former Review Team members did not reflect the same conclusion that this is making. That said, from what I hear, those Review Team members are going to be present in Panama, so this is probably a discussion that we could have with members of the first Review Team in Panama as well, but like I said, I will have to review this in more detail before I comment.

LILI SUN:

So actually, all the references here, I shared in e-mail with you before in the past two or three weeks. So yes, here is all the collection of all the references. Maybe, yes, you can come back to us later.

VOLKER GREIMANN: Yes, but –

LILI SUN: Any further comments?

VOLKER GREIMANN: My question is rather how much has the definition of the NORC study been actually taken as, “Yes, we are adopting these definitions, and these are the definitions that we are recognizing for our work,” whether that is [included] in the full study or if they have made their own definitions from what they considered accurate and reliable. Just because the NORC study used a certain set of definitions does not necessarily mean that this same set of definitions was used by the working group or the working group members. So I will just have to review that and will come back with a comment later on.

LILI SUN: Okay. Just one comment, I’ll give the floor to Lisa. For your question here, actually, I checked the WHOIS1 Review Team final report from A to Z. So the WHOIS1 final report makes reference to the NORC study all the way. So I believe they’re following the same definition or interpretation about accuracy here. Okay, Lisa, please go ahead.

LISA PHIFER: Thanks, Lili. I wanted to provide two bits of information. One is that I just pulled up the message that Susan had sent to the Review Team list when you, Lili, had asked for confirmation about Review Team 1’s

intention, and Susan had said on the list – and I’ll just quote her, “I was a member of the Review Team 1, and accuracy was concern for the Review Team. Contactability is important, but simply including a working e-mail address in WHOIS record with everything else as false is not what the Review Team deemed acceptable. That was the current state, but allowing identity theft and RDS data or blatantly false data is a downfall of the current system.” And again, I’m just quoting what Susan sent to the Review Team previously. She was a member of that first Review Team.

I also wanted to follow up on the NORC accuracy study. Some of you may know that I actually project managed the NORC registrant misidentification study – or identification study – where they looked at the ways in which registrants identify themselves. And Lili, it is true, I think, that the Review Team 1 made strong reference to the NORC study at the time they produced their findings, because that was the study they had to work with.

However, the accuracy reporting system was produced as a result of Review Team 1’s recommendations, and it’s my understanding that as they produced the accuracy reporting system, they had to somewhat modify the actual criteria that they were using to determine accuracy, in part because the methodology is different.

In the NORC accuracy study, they actually called phone numbers that they found in the WHOIS data to confirm that they were reaching the party that really registered or served as a contact for the domain name, but the accuracy reporting system doesn’t do that. So while I think they

tried to stay with the intent of the NORC study, they did refine their definition somewhat.

CATHRIN BAUER-BULST: I'm no longer in the Adobe, so if you could put me in the queue, please.

ALAN GREENBERG: You're at the top of the queue.

LISA PHIFER: [inaudible] Cathrin. Go ahead.

CATHRIN BAUER-BULST: Yes, thank you. Thank you, Lili, thank you, Alan, and thank you, Lisa, for the clarification. I was following the accuracy work for some time, and I remember there being three phases, of which the last was supposed to encompass exactly the type of activity that the NORC study did and that ICANN chose not to engage in for now, which is to actually call the numbers and verify that they're not just phone numbers that work and are operational, but that they are the phone numbers of the persons who have registered or the entities that have registered websites, and to do the same with e-mail addresses.

And that was supposed to be phase three of the accuracy, but there was of course strong resistance in the community to going this far. So that's why, to my understanding, phase three has not yet taken place. But there was supposed to be this third stage, and others may also have

some knowledge of this. So I believe that the identification of whether the actual data provided in a WHOIS record is not just data that works but is data that belongs to the registrant was also at some point foreseen as part of the accuracy effort to follow up on the NORC study. Thank you.

ALAN GREENBERG: Thank you.

LILI SUN: [inaudible]

ALAN GREENBERG: Yes, I think it's fair game for this Review Team to make a comment saying we believe that that kind of verification that Cathrin was talking about should be done in the future. In other words, reiterate that it is still what we believe necessary. And whether that be done on a random basis or only cases where there is a reason for suspect is an interesting question, because if we believe the vast majority of phone numbers we call for instance are going to be the right person, then it's not a very efficient way of doing this.

On the other hand, there may be other criteria which are used to determine whether, in fact, this is a case where there is reason to believe it might not be valid. So I think going forward, we cannot simply sit back and say they didn't do things that were talked about seven years ago, because we are going back that far at this point, or at least

that far. I think we have to make a recommendation at this point for what does ICANN really do.

So simply saying it was in the past list but has been deemed for one reason or another not to be effective, efficient or doable, I think we have to look at it from a fresh point of view and decide, is this something we truly want to recommend, understanding there are cost implications and other things, or is it something we want to drop at this point? So I'm not dictating what the answer is, but I think we can't simply rely on the fact that it was there a long time ago and ICANN should simply do it without at least some level of decision-making, whether it's this Review Team or some other process that makes that decision.

And back to you, Lili. Sorry, Lisa has her hand up.

LISA PHIFER:

Thanks. I wanted to point out one more thing, which is that when the Expert Working Group took a look at accuracy, they did some thinking around alternative ways to improve accuracy, or in this case to reduce identity theft or fraud, some alternative ways of doing that which don't involve necessarily checking the data after the fact, but in fact trying to get permission from the data subject before the data is used.

So Lili, just suggesting you might want to take a look at that as a different way of tackling the problem if what this Review Team concludes is that the situation in which the first Review Team identified that data was being used was [technically] and operably accurate in some cases but didn't belong to the party that was supposed to be the

contact or did in fact register the domain name, if that's still a problem that this Review Team identifies, there may be other ways of trying to address it.

LILI SUN:

Yes. Thank you, Lisa. Actually, from my point of view, first of all, we need to accept what accuracy really means. I understand it's difficult to [inaudible] the Recommendation 5 to [now] especially for the identity check. Yes, here I'm responding to Brenda or Alice in the chat. Actually, we received a written briefing from [inaudible] for the ARS phase three. ICANN is proposing alternative way to implement the identity accuracy check.

So even if difficult to implement, but I still insist that the benchmark or the definition or accuracy, we should stick to that definition of accuracy. But from a practical perspective, maybe the implementation methods or [inaudible] we can further explore. But as a definition of the accuracy, it should be a benchmark. We cannot change it. That's my understanding.

CATHRIN BAUER-BULST:

If you can add me to the queue again, please. Sorry.

LILI SUN:

Yes, please, Cathrin.

CATHRIN BAUER-BULST: Yes, I just wanted to echo or lend my support to the idea of including some best practice examples, because actually, the registrar that we use personally has this kind of verification of the e-mail address and the phone number through a pretty simple system. If it's a mobile number, you can send a verification code, and you can send an e-mail saying, "Your data was used to register this website. Please confirm that it is you who's registering this website and that you intend to make this registration. So there are modern ways of doing this, and if ICANN has come up with some of them, then maybe we can also build on that and include that in our recommendation that [inaudible] possible. Just a thought.

LILI SUN: Okay. Thank you, Cathrin. Volker, please go ahead.

VOLKER GREIMANN: Yes, but the verification of e-mail or phone number is already a requirement under the RAA, so if any registrar is not doing that, then they're already in violation there. So there will be a method that either e-mail address or phone number is verified at the time of registration and certain amount of times, for example, transfers or owner changes.

The reason that it wasn't spelled out how to do this was actually because – it was actually intentional that we didn't spell out how to do that, because every registrar and registry was supposed to be free in how to implement that so that it would work with their business model. If for example you're a corporate registrar, then you probably know your customers because you visit them regularly. If you are a retail

registrar, then there may be other ways of doing that through customer accounts and certain things that you display that have to be inserted into phone conversations or phone [documents] but if you're a reseller registrar, then it might work differently again.

So we did not spell that out in the RAA explicitly how to do that, simply for the reason because there are so many different approaches that can be taken. But it has to be done. So there will be a verification of a phone number or e-mail address at the time of registration, transfer or owner change. And therefore, I'm not sure if we just want to reiterate that this has to be done, because it's already done.

LILI SUN:

Carlton, please.

CARLTON SAMUELS:

Thank you, Lili. I am going back to Cathrin and then Volker as a part of it. So what it appears that we're saying is that contactability ought to be the standard, and contactability by any one or other means. There are at least three different ways that you can contact a registrant in the RAA, and what we might wish to say directly is to the extent that registrant is contactable and to the extent that we can see one or any of those elements that might be out of whack with the requirements for the registrar to check, then we make it incumbent on the registrant to provide another contactable method.

So what we're trying to do is improve the several ways you can contract a registrant, and if one of them works, then we have contactability. If

more of them work, then clearly, we are on the winning path. So if we could [find a way] to work that in, maybe we can get around the business of looking at the many ways that the registrar is on the hook to ensure that all of the contactable methods are in place. Thank you.

ALAN GREENBERG: Thank you. I think I'm next. Lisa, I see your hand is up. Please go ahead first. No, your hand is not up.

LISA PHIFER: Thanks. It was, I just took it down.

ALAN GREENBERG: Okay, go ahead.

LISA PHIFER: I just wanted to call your attention to – and I've put it in the chat pod – SAC 58 actually is a report on the various forms on data validation and covers the definitions of the three kinds of validation, syntax, operability and then identity. And I've listed the links there. I think that that is the sort of baseline definition to which the accuracy reporting system tried to follow, and Lili, you might find that to be a suitable baseline definition to move forward on.

ALAN GREENBERG: Thank you, Lisa. A question for Volker, and then maybe a suggestion. Volker, currently, the RAA says you must validate either the phone

number or the e-mail address. When you do such validation, do you note in your records when it was done and which one you validated, or do you simply say – tick off saying, “I have satisfied the requirements?” I’m asking about you particularly, not necessarily other registrars.

VOLKER GREIMANN: you’re very well-advised to keep records of that, because that will be audited as part of the regular audit program of ICANN. What we [need to] do is that we will definitely keep a record of what was changed, when it was changed and how it was confirmed in our database for every contact that we handle, just to make sure that we will be able to demonstrate to ICANN Compliance that we are in compliance with our obligations under the RAA.

ALAN GREENBERG: Thank you.

VOLKER GREIMANN: [inaudible] that you might have down the road.

ALAN GREENBERG: Thank you, Volker. Would it... Go ahead.

VOLKER GREIMANN: It’s not only part of the audit program, but you will also have to prove it if you get an inaccuracy complaint, then they will ask for that as well.

ALAN GREENBERG: Sure. Question for the group: would it make sense for us to make a recommendation saying that for each bit of contact information in the RDS record, if it is verified, the registrar must specify the methodology – and there could be a list of one through five or whatever – and the date it was done? Would that make sense?

VOLKER GREIMANN: Specify how?

ALAN GREENBERG: Pardon me.

VOLKER GREIMANN: Specify how? We will have it specified in our database, but we don't usually publish it in the WHOIS.

ALAN GREENBERG: Well, I'm asking, would it make sense for us to make a recommendation that the WHOIS data be modified that for each contact information, if it is verified, that the methodology, which method was used, which implies what level of confirmation – is it identity or is it simply working – and the date it was done? I can't see how that is intrusive. It's data which the registrar – as Volker has just implied – probably already has, we're just changing the content of what is displayed. And yet it provides an extra level – if nothing else, it tells us – the registrar must verify

either the e-mail address or the phone number, this tells us which they did.

VOLKER GREIMANN: Yes.

ALAN GREENBERG: I think that might be an interesting thing that will move forward in ultimately trying to get completely accurate data, but at this point, it at least confirms what we have verified and what we have not.

VOLKER GREIMANN: Yes. And that's what I think is best there, because you collect the data in order to make contact, and if you can verify one of those two are contactable, then you're good. You try to include the other one. So I'm talking about an incremental –

ALAN GREENBERG: Okay. We have a long speaker queue at this point. I'll go to – Lisa, do you want to speak first? Or where were you in the queue?

LISA PHIFER: I'll speak first quickly.

ALAN GREENBERG: Please go ahead.

LISA PHIFER: So Alan, thank you for succinctly describing the alternative mechanism that the EWG proposed, which was to include in WHOIS data the level of validation that was achieved and when it was achieved.

ALAN GREENBERG: Oh, I didn't even know that.

LISA PHIFER: But I would also note that that's actually stating a policy, and for a recommendation, I think you want to focus on the problem you're trying to solve. That is if you think that it's necessary to have that information, then it would be up to a PDP to address the information that you state in your recommendation is necessary.

ALAN GREENBERG: Okay. Thank you. I'll respond quickly and then go to the queue. We've used terminology in other places saying the board should, either through negotiation or by initiating a PDP, carry that out. It's not our job to say how, but it is achievable by both methods, and it doesn't require a PDP if it can be negotiated. But ultimately, a PDP is fine. And the fact that the EWG also made that recommendation – which I did not remember at all – just makes that a stronger position. We have Lili and Volker in the queue.

LILI SUN: Alan, just a response to your recommendation. Actually, my understanding is that under full circumstances, registrars need to validate and verify the contact information of the registrant. So the number one is upon registration. Number two is about the transfer of the registrar. The third one is once a registrant's contact information changed, so the registrant needs to inform the registrar to update the WHOIS data. So the number four is when the registrar receives an accuracy complaint, the registrar needs to validate and verify the contact information.

So there are four circumstances for the registrar to validate and verify the contact information. So I mean all those obligations are already there, so it's just an issue of how to enforce contractual obligations. So I believe your recommendation is already either put into the RAA or in a [inaudible] policy. So I'm not confident about this recommendation, it's a duplication about the policies already in effect.

ALAN GREENBERG: Volker, and then I'll respond.

VOLKER GREIMANN: Yes, just a brief note. This has been discussed in the past as part of the RAA negotiations as well, and we always need to bear in mind that WHOIS data or registrant data is not only used by the good guys. And putting in too much data that may assist the crooks that use that data making determinations of how to best attack a certain registrant or improve their spam database even more by knowing that these have

been verified and when they have been verified, there are certain privacy concerns there as well.

This certainly also has GDPR implications in as much as this is processing for purposes that are not our own, for contracted parties. There are technical implementations that have to be occurring that should not be neglected, because this has to be part of the process of updating the registry data, the registry has to make certain allowances for that, then it has to be forced in a certain format that may not be adopted by all registrars at this time.

So there's a lot of work that has to go into that before such a recommendation – which has certain uses, I will admit – could be made into a reality. But these would have to be taken into account before we make such a recommendation in that direction. There are certain risks attached to that, and there are certain elements that may skew the cost-benefit balance into the realm of the unfeasible. That would have to be analyzed.

ALAN GREENBERG:

Okay. Thank you. To Lili, Lili, you described when data must be verified. I was not commenting at all on when it should be done. Either it be done at those four times, or we could have a new rule saying all registrars must validate information four times a month – a stupid extreme – all I was saying is that we should document in WHOIS how something was verified, if it was verified or validated, and when it was done. And as Lisa mentions, that was already a recommendation out of the Expert Working Group.

In regards to Volker's comment, it's clear that if you provide an e-mail address, we are presuming that e-mail addresses are good, and e-mail is the least intrusive method that we can use, and we're providing anonymized information under GDPR. There's no way we can stop those from being harvested at some level if they are publicly available. I wasn't commenting at all on whether this information that we're adding to WHOIS is publicly available or restricted, I was just saying the information should be there.

And then under GDPR discussions, we have to decide, is this publicly viewable, is this viewable only if you're looking at enforcing some sort of intellectual property rights or law enforcement? That's a completely different question from whether it's collected or not.

So although I appreciate what Volker is saying, I really don't think that comes into this discussion. It's a discussion that comes into the discussion on when is the data released, not when it's collected. I'll note we have 15 minutes left in the session, so we're going to have to move on at some point. Are there any final comments on this? Clearly, we still have some work to be done on this recommendation, on this whole section. Lisa, please go ahead.

LISA PHIFER:

Thanks, Alan. I just wanted to – for notetaking purposes to help Lili follow up on this, I heard three main problems being raised. One being the lack of – or maybe too many definitions of accuracy, but a lack of a policy-defined definition.

Another problem being that identity theft as envisioned by the first Review Team is still an issue that hasn't been addressed by ARS yet, and the problem that WHOIS users cannot tell to what level data has been verified or when. So maybe that's a starting point for Lili to work further on recommendations that would follow.

ALAN GREENBERG: I'm happy with that. Lili, are you comfortable?

LILI SUN: Yes. [I'll take note.]

ALAN GREENBERG: Alright. Let us go on to the next – whatever is next at this point. I lost track. Alright, we had compliance. Susan is not on the call, and we probably don't have time to go into it. And I think the next one was safeguard registrant data, and I can talk about that a little bit. Is it possible to put up the current version of the recommendation that came out last night? And people can do their own scrolling, and the recommendation is – there it is, on page five.

So this has now been updated to factor in what we have discovered on the escrow agreements. To summarize, current registrar-registry agreements make no comment about using commercially viable and industry standards for securing data, and the recommendation is suggesting that ICANN consider this. And none of the recommendations, none of the contracts require that ICANN be notified of breaches.

Now, you registrants in certain areas may be bound by contract to notify the owner of the data. I don't think any of them would be – some of them may be required to notify data if ICANN is considered a controller of that data. But again, that limits it to certain registrants, certain contracted parties who are subject to local law and regulation. So this is suggesting that ICANN do this, and the real question is, do we suggest that ICANN consider this or that we require it? That's something we can decide at the face-to-face, but if anyone has strong opinions, we can go into it now.

Volker, please go ahead.

VOLKER GREIMANN:

Thank you. I think this is very close to what we can – at least in my opinion – sign off on. And maybe we should be a bit less directive on how these requirements should be identified. Even though we should imply that this should be done by certain data security expert, I'm not sure that we should tell ICANN in our report that this is what they should be spending money on.

And the second part is I would just change the wording on the second paragraph there. We should say that they should consider the comparable requirements. For example, with GDPR as a model, just to expand on what's written already to make sure that these current requirements already would satisfy what we're recommending as we've discussed earlier, but as we are aware that these do not apply to every contracted party around the world, certain harmonization might be beneficial.

And to your other point, as soon as ICANN gives up its reluctant to act as a data controller, we as processors would be required to report to ICANN any breaches, because that's what processors are obliged to do under the data processing agreement and under the law, because ultimately, it's not the responsibility of the processor to inform the data subject, but rather of the controller who enforces that. And under the GDPR, therefore there is a reporting requirement, not just to the data subject but also to the data controller. So here's another point for ICANN being a data controller. [inaudible]

ALAN GREENBERG:

Thank you, Volker. I'll note that I've already put the word "external" in square brackets, but I realize now that if it was not external, it wouldn't be "contract with," so that needs to be rephrased a little bit. But I was providing some level of flexibility in line of your previous comments on let's not force ICANN to spend money.

I fully support the rewording of the second paragraph to say "as a model," and in terms of requiring that ICANN be notified of a breach, again, you're talking about the specific legislation that might apply, but we are going to be dealing with at least registrars, registries that are not subject to specific legislation. So I think we need to make sure that we have something that's sufficient.

I'll note an interesting curiosity. If you say that it is the data controller that must notify the owner of the data, that's a really interesting subject that we're now saying a registry or registrar notifies ICANN of the breach, and ICANN must notify the registrant, where of course ICANN

may not have contact information for that registrant, nor do we have the mechanism to easily do that. So that's an interesting thought. I don't [know whether we want to] discuss it right now, but it may be an interesting thing to implement as we go forward.

And Volker says they can through the processor. Yes, if we're allowed to do that, then certainly, that makes it easier. I thought you had said that it was our obligation to notify directly. In any case, so I've got a few changes to make there. I'll make them quickly and get it out so it can be incorporated in both draft reports and in the slides.

Lisa, please go ahead.

LISA PHIFER:

Thanks, Alan. It occurs to me that sometimes, we get caught up in the who will do it and when and how, and I think what I'm hearing you say is that the registrant should be notified when there's a breach, full stop.

ALAN GREENBERG:

I didn't actually recommend the registrant be notified. I certainly could do that. I was simply saying ICANN should be notified.

LISA PHIFER:

Okay.

ALAN GREENBERG:

I am not sure that ICANN is in a position to require that the registrants be notified by the registry, registrar. Certainly, their own local data

protection may or may not require that. We're not a party to those contracts, so I guess we could put it in the RAA. I don't know if anyone has any strong feelings about whether we should or not. I could put some square bracket part in that on notifying registrant.

LISA PHIFER: So I still [inaudible]

ALAN GREENBERG: Certainly, the escrow provider's not going to be in a position to notify the registrant.

LISA PHIFER: I still think what's important to drive [this] implementation is to understand what the end goal is.

ALAN GREENBERG: Yes.

LISA PHIFER: Is the end goal that the registrant be notified in some way, and then there's a part which ICANN plays? Right?

ALAN GREENBERG: Yes. Certainly, I did not include that part as an end goal. It is something we could do, and I'll put some square bracket language in about that.

LISA PHIFER: And if that's not your end goal, it would say that as well. My point is that the end goal is not really clear.

ALAN GREENBERG: Yes. The end goal that I was aiming at is that reasonable – both commercially viable and standard – procedures be used to protect the data, which it currently is specified in the escrow agreement but not in the registry/registrar agreements, and the second one is that ICANN – the second goal that I had included so far is that ICANN be notified in the event of a breach, not necessarily the registrants, but I will put square bracket language in about that.

And then the other thing which I was sort of musing – and it clearly does not apply to registrars and registries, because they must make WHOIS publicly available under some conditions. Even under GDPR, they will make it available under some conditions. The question really is to escrow providers, and the question is, how secure does secure have to be?

If you go back certainly a while ago for really obscure things, and I'm talking about groups like the US Central Intelligence Agency, their rules were very strict that top secret information not be placed on a machine which has physical wires going to it, it only be placed on machines that have no connectivity. And that protects it against anything but physical access on site. That was as long time ago, I don't have a clue what their rules are today.

But the question is, do we want to specify anything about how accessible this data is externally? In other words, if one were to say that, one would then say that when it has to be recovered, it be moved onto another machine with external connectivity. I was musing this, and I think my conclusion was that would be far too extreme and far too level of detail for us to specify, but I'm tossing it out in case anyone has any thoughts. Carlton.

CARLTON SAMUELS:

Thank you, Alan. [inaudible] bring in escrow providers into it, because I want to ask the question, how do we classify the data at the escrow provider in the context of the data protection language of a data controller, data subject data controller, data processor? I would argue the escrow providers are data processors, and what we might wish to do is to use that language to cover all of the recommendations, both for commercially viable safety requirements as well as a breach notification. That's what I'm thinking.

ALAN GREENBERG:

Certainly, I believe that in the context of GDPR, they are data processors. But again, GDPR is not the world, and I don't think we want to even use terminology that explicitly applies to one group and may not apply to someone else or may in fact be different from the definitions used somewhere else. So what I'm suggesting is that we do use the same rules across all of the processors, but I'm not sure we want to use terminology that applies to that. Okay –

CARLTON SAMUELS: I agree to that, but to the extent that we want to make it apply all the way, the way to do it is to go definitional, so we define what we mean by data processor, define what we mean by data [inaudible]

ALAN GREENBERG: Okay –

CARLTON SAMUELS: What we mean by data controller.

ALAN GREENBERG: Yes. We're really out of time at this point.

CARLTON SAMUELS: It would be the easiest way.

ALAN GREENBERG: We're really out of time for –

CARLTON SAMUELS: It would be the easiest way – sorry, go ahead.

ALAN GREENBERG: Carlton, I would strongly advise that we don't define terms that are already defined in other contexts, because then potentially, you have different definitions of the same term. So I would not define a term of

data processor, which might or might not be different from that used by GDPR but could be different from that used in other jurisdictions. So I think we only have three different entities to talk about, so I'm not sure I would support going to that definition.

We are almost on the half hour, we don't have a lot of other time for discussion, and I would like to go to the summary stage. Is there anything else that we need? What else was on the agenda that we haven't covered, if I may ask? Okay, the face-to-face meeting, we can talk about that further. I don't think we're on a desperate schedule at this point post-call.

The question is, do we meet on July 2nd? Which is the Monday following the ICANN meeting. I think it would be a useful meeting to have, if only to review what happened at the face-to-face meeting and see if any of our direction gets changed because of that. On the other hand, I'm a little bit worried about how many people may not be able to attend. Does anyone have any thoughts on this? We can certainly continue this discussion on the e-mail. My inclination is to hold that meeting if indeed we think we'll have moderately good attendance. Any thoughts on that before we go to a summary of the meeting?

CARLTON SAMUELS:

I just [want you to know] that I won't be available on the 2nd of July because I'll be in transit someplace.

ALAN GREENBERG:

Alright. Maybe we can actually send out a Doodle about how many people will be available on the 2nd of July and make a decision based on that, if I could ask staff to do that. And if I could turn it over to – I presume – Alice to review any decisions or action items out of this meeting. You can skip all of the action items that I have to update my reports for expediency.

ALICE JANSEN:

Thank you, Alan. So decisions reached today: the slides are to be considered as guidance, no time for a detailed presentation at our engagement session. [inaudible] to remain and list outreach targets, including GDPR data subjects and importance of cost effectiveness.

In terms of action items, we have subgroup rapporteurs need to send any edits they may have on the engagement slide deck by June 20th at 15:00 UTC, Alan to update outreach Recommendation #2 to reflect above agreement, ICANN org [to update its] recommendation on the subgroup's [inaudible] updated report.

Lili to start work on recommendation [inaudible]. One, lack of policy definitions of accuracy, two, identity theft problem not resolved, and three, WHOIS users cannot tell to what level data was validated or when.

Alan to update safeguarding registrant data subgroup report based on discussions, ICANN org to update the engagement slide as appropriate to match the updated subgroup report. And then ICANN Org to [inaudible] Doodle poll to confirm whether to keep or not the 2nd of July meeting.

ALAN GREENBERG: Thank you very much.

ALICE JANSEN: That's what we have for today. Thank you very much.

ALAN GREENBERG: And Carlton, I assume that's an old hand.

CARLTON SAMUELS: Yes, it's an old hand, Alan. Forget it.

ALAN GREENBERG: Okay. Thank you, all. Good meeting, and see some of you in Panama, and other than that, we'll be working online. Thank you all. Bye-bye.

UNIDENTIFIED FEMALE: Thank you.

CARLTON SAMUELS: In Panama.

UNIDENTIFIED FEMALE: Bye.

CARLTON SAMUELS: Thank you all. Bye.

[END OF TRANSCRIPTION]