
JEAN-BAPTISTE DEROULEZ: Hello. Jean-Baptiste speaking. Welcome to RDS WHOIS2 plenary call 43, face-to-face meeting number four. This is day one taking place on 10th of December, 2018 at 8:00 UTC. Attending the call today we have Alan Greenberg, Susan Kawaguchi, Cathrin Bauer-Bulst, Volker Greimann, Dmitry Belyavsky, Lili Sun, Chris Disspain.

From ICANN Org, we have Jean-Baptiste Deroulez, Negar Farzinnia, Brenda Brewer, Jackie Treiber, and we have no observers in the room. In terms of apologies, we received one from Erika Mann with RIPE later this afternoon, and Carlton is delayed. Thank you.

ALAN GREENBERG: And this is Alan Greenberg, the chair of the RDS WHOIS2 Review Team. I'll also note that we have one other person who we believe is not coming, but we have actually heard from him, [Thomas Walton.] I'm sorry, we have confirmation he said he wasn't coming. Okay. No, Thomas. Do we have any statements of interest that have changed? None indicated. Next item is housekeeping, and I will turn it over to Jean-Baptiste.

JEAN-BAPTISTE DEROULEZ: Thank you, Alan. Just as a reminder, raise your hand if you wish to be added to the queue. Session is recorded. Always use your microphone, state your name before speaking. And if at all possible, limit the use of your laptop during the meeting. And for the break, food and water is located in the reception desk, and the kitchen area will be used for

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.

lunches like for past meetings. And if you go to the bathroom, there are [inaudible] which are just available just through the door. Thank you.

ALAN GREENBERG:

Thank you. To be clear, we will be using the Adobe Connect room. If for some reason, you can't get into it, we'll try to intermix hands. And I'm not in the Adobe Connect room yet, so please take that into account. Alright, opening remarks.

Why do we have an echo? It's a three-day meeting. We dedicated a fair amount of time for each of the topics. The intent is to come out of this meeting with the recommendations locked in. Now, unfortunately, I was just told that the comments from ICANN org, which are presumably largely implementation-related, but nevertheless could affect the wording of the recommendations, will not be delivered for some small number of days. And we have an ICANN staff member who would like to speak. Negar.

NEGAR FARZINNIA:

Thank you, Alan. The comments that the ICANN Org is looking to provide to the review team is a combination of some clarifying questions that we would like the review team to help address. What we have done is look at the feasibility of implementation of the recommendations. As we had discussed during the past face-to-face meeting, our goal is to improve the way we do implementation of the recommendations, and so we start looking at the feasibility of implementation while the review team is developing its draft recommendations and working on finalizing it.

So part of the feedback or clarifying questions we hope to ask the review team to better understand parts of the recommendations that we may not be quite clear on, and the rest of them [all relate] to implementation, operational feedback for the review team to hopefully help streamline the recommendations to ensure that implementation is more effective and feasible. And as you noted, Alan, you're looking to have that feedback to the review team in the next few days, and hopefully get your response or clarifying questions.

ALAN GREENBERG:

If I may ask, does this next few days imply before we leave Brussels?

NEGAR FARZINNIA:

Our target actually was to provide the feedback to you while you were in Brussels, but I think the likelihood is a little less. And I know that back in L.A., folks are working hard to get everything to you guys soon. So, fingers crossed, I'll keep you posted on the progress, and if everything goes according to my plan at least, we should have something before we leave Brussels.

ALAN GREENBERG:

I hope they'll be working as hard to arrange our fifth face-to-face meeting if we need it. Please note, if you're speaking without the microphone, you don't go on the record but also, I can't hear you. That may meet everyone's targets.

Alright, two things. Well, the next one is opening remarks and day one objectives. On opening remarks, I guess I have free reign. We will, as we

go through the day, be talking a little bit about the EPDP, because the way things are going in the EPDP I think implicitly will impact what we do, either in a positive or negative way, but I don't think we can ignore the trends that are emerging out of that process.

We managed to get full consensus on all the draft recommendations. It would certainly be nice to have full consensus on all of the recommendations coming out of the final report, but I have no illusions that as we come down to final wording, we may not get full consensus.

And I certainly can live with that, and we'll have ample [opportunity] for people to submit statements since we are not trying to come out of this meeting with a draft report ready to ship. We're expecting that not to happen until sometime later in January. There will be plenty of opportunity for individual statements of dissent or disagreement or whatever.

And as much as I'd like not to have many of those, I think we have to accept the fact that we may not get full closure. And hopefully – we do have a rule of [inaudible] and we will be using it. But we will move forward regardless. The objectives from this meeting overall, as I said, are to come to closure to the extent that we can within this group on what it is we're recommending. We may well have some recommendations where for one reason or another, we can't determine the absolute wording. And certainly, we've heard because of comments from ICANN staff that we may end up having to do some more work after this. But that's certainly the intent.

We have tried to arrange the order of the subjects so that the more contentious ones are earlier in the meeting so that we have an opportunity to do redrafting or private work in-between. The fact that two of our members are not here yet, three including Stephanie, is somewhat problematic, and that may impact how we go forward. But the intent certainly is still to do that.

I think that basically is where we are, and we've tried to allow adequate time for what we believed would be the more difficult discussions and less for others. We are clearly going to have to be adjusting the time schedule going forward, and we're going to be flexible on that. When we allocated three days, we thought it was more than liberal. I'm not sure anymore, but we'll see.

And before we go into the workplan, which I'll turn it over to Jean-Baptiste for, are there any questions or comments on targets of what we want to get out of this or questioning the methodology that we're proposing?

Okay. Alright, so once we start, we will be [basing] discussion largely on the comments we received. However, the WHOIS world, if I may use the archaic term, is a changing one. And to the extent that we believe that there are either things in the original recommendation which we would do differently now, or that there are new issues that we did not consider at all before that have to be raised – although the norm is that we try to publish our draft recommendations, our recommendations in the draft report, there is no rule saying we cannot add a recommendation in the document as appropriate.

And that's all I have in terms of opening comments. I know Jean-Baptiste is going to look at the workplan. The workplan has been adjusted as best we understand now to go along with the January ending date. But certainly, those of us who have any other parts of our life would not like to miss the January [inaudible]. But we'll have to play that by ear.

I do have some comments on the form of the draft report, but Jackie will be taking us through that in the next item, I'll [defer to that.] So, any further comments before I turn it over to Jean-Baptiste for the workplan? No? Jean-Baptiste, it's yours.

JEAN-BAPTISTE DEROULEZ:

Thank you very much, Alan. So the workplan that you currently see onscreen is [inaudible] reflect the latest changes and the decisions that were made, including the extension of the public comment period.

So by now, by 21st of December, 2018, the review team has a target to update the recommendations and reports based on the public comment received. That leads us to the deadline of the 11th of January, 2019 to approve the final findings and recommendations for submission to the ICANN board, and finally, [by January,] the final report will be sent to the ICANN board and Language Services, so this is a [buffer at least] time to adjust the draft report or the formatting, and all that is linked to also translations and preparing all that.

On that same [March 21] deadline, by that date, the review team will have to identify review team members who will remain available for clarification as may be needed during the implementation planning

phase, and if you recall, this is [a review of] terms of reference, you had already stipulated that in terms of reference. And I've included into the appendices, and I'm more than happy to get back to that at the end of the meeting with more information on what is really needed, and adjust the level of involvement needed for [inaudible] more review team members staying after the review team has stopped. Yes, Alan.

ALAN GREENBERG:

Thank you, Jean-Baptiste. And to that end, we have informally offered to ICANN Org and/or the ICANN board or a subset of the board to meet in Kobe in the meeting in March and clarify, discuss, whatever. Obviously, we can't change the recommendations at that point, but hopefully, if in the interim month and a half or so, any questions have arisen or any clarification is needed or will be helpful, will be available, then [I'll be there,] Susan will be there, and I think Cathrin will be there. So hopefully, amongst the three of us, we'll have some idea of what's going on. Chris, yes.

CHRIS DISSPAIN:

Thanks, Alan. If you're right and there are some – [inaudible] I think there would be some recommendations on which there won't be consensus. If you're right, are you anticipating that this report will say, "Here is a recommendation that we couldn't reach consensus on," or that they will just be taken out? I'm asking because when it comes to discussion [inaudible] envisage managing that.

ALAN GREENBERG: I may have used the wrong word. We will have consensus on everything. We may not have unanimity.

CHRIS DISSPAIN: Okay.

ALAN GREENBERG: We do have words in our terms of reference about consensus, so we may well have – and I would not expect to have more than one person on any given topic, but we may not have unanimity. We will have consensus. Jean-Baptiste, were you finished?

JEAN-BAPTISTE DEROULEZ: Yes, unless there are any comments.

ALAN GREENBERG: Then we're on to item two, the overview of the draft report, and it says ICANN Org. I'm not sure if Jackie is presenting or somebody else.

JACKIE TREIBER: I am working with ICANN Org to assess any issues with the draft report, and I just wanted to first describe my methodology, which is pretty consistent for most editors I looked at to make sure that the writing was clear, logical threads kind of continue throughout.

I mentioned backing up all claims, mostly just means if the team is waiting for a report, for instance from the registrar working group,

there's a section of the report that is waiting for that if we do eventually get that.

[inaudible] looking to remove any redundancy throughout, both globally and line by line. Sometimes, that happens in certain sections. It happens actually quite a bit in the executive summary, so we'll review that later this week. And of course, I'm proofreading for any spelling errors, grammar, numbering issues – which there are a few numbering issues throughout the relevant research links. We can review that later as well.

Also looking for formatting issues, any graphical issues, for instance in the law enforcement section, there are a few graphs, at least for me, that were missing or repeated, or they didn't actually match the narrative that precedes it. And then of course, I'm looking for a consistent voice, making sure tenses match and that the style and voice is consistent as well. Next slide, please.

Another way that I determine [as far as the] readability of the document is to reference a pretty universal readability scale, which is called the Flesch–Kincaid scale. I may have mentioned this in our last leadership call on the 5th of December, but I'll review it here once more. The reading ease scale is on a 100-point scale. Between 60 and 70 on that scale is plain English. Of course, [we're doing a] fairly technically-oriented, somewhat dense topic, so I don't expect us to get to 60, but currently, we're sitting at about 30 on that scale, which is quite low. So I'm editing to make sure that we have a more readable document if possible.

And then of course, I'm looking at the grade level comprehension of the document, which most publications strive for a grade level of eight. Again, I understand we're talking about more technically dense information, so I don't think we're going to get there, but currently, we're at a graduate level or PhD level, so if we can maybe make that a little lower, that would be great.

Let's see. For instance, with the review background of the executive summary, [that was quite low on the readability] scale, so I'll be editing for that to make sure that we can get something that's a little more straightforward and concise. Next slide, please.

Again, I mentioned this in the leadership call, but our executive summary is sitting at roughly 6 to 7% of the document, which is on target .we discussed during the meeting that I initially wanted to edit it for length. The leaders decided that we should edit for clarity and not necessarily for length, so I'll be striving to do that.

Next up, I'll discuss the Noncommercial Stakeholder Group comments and how we plan to address those. They had a need for clear expansion of the acronyms at first introduction and throughout major sections of the document. Alan has said before that he believes that you all have done that, and I would agree. There are a couple spots where that doesn't occur, but I think that they're few and far between.

Secondly, they asked for an acronym list to be created and listed under appendix A. My edits so far have incorporated undefined acronyms into the glossary. I don't know if that is something that we want to proceed with or not, but there were some acronyms that were not [defined in

the] document, including GDPR and ARS. So I'll be working on that the next few days. Next slide.

They also noted that there were some formatting issues. The leaders somewhat agreed, but I will be examining the document globally to make sure that it's readable on that front as well. I don't think it's excessively bad, I think it just needs some tightening. They also commented on some grammatical, typographic errors. There are many of those, so I'm taking care of that. The leadership team agreed as well.

They then went on to say that the naming and cross-referencing of recommendations from one review team to the other are somewhat confusing. We suggest including a cross-reference index in the appendices and the executive summary, or to simply stick to the recommendations of the first [review,] not the subteams. Team leaders believe they cross-referenced these recommendations already. I will do due diligence to ensure complete comprehension.

I reviewed the executive summary this morning, and the recommendations are of course listed in that grid, and I actually think that we could probably elucidate that a little further in the executive summary. I think that would help people a lot. I struggled with that myself as the editor, so I think that readers are going to experience that confusion as well.

A few more observations. I noticed there's some missing information. I reached out to a couple of the teams already about this, but in consumer trust for instance, there's a list of reviewed webpages that's missing. In the "anything new" section, page 88, there's the impact of

GDPR that's missing. Section 8.3.4, cross-field validation, [they're waiting for a] response from the registrar working group, which was due the 31st of July. I realize that was around the time that this review draft was completed, so I understand why that's missing, but that is information that we need to access.

And I also noted that the relevant research links took up quite a bit of the main part of the document, and I thought that we could just [port] that into the appendices. And during the leadership call, the leaders agreed that that would be a good idea.

Some unfinished business, I already mentioned the missing sections. Some relevant research link sections need serious overhaul with multiple instances of missing links, strange numbering, and that's also an issue of formatting as well. And then section reviews should be done by team leaders soon. We experienced a bit of a hiccup as far as putting this document into Google Docs where everyone should be able to access it soon. I ideally wanted to get review team leaders to comment on some of my questions prior to this meeting, but hopefully, we'll be doing that the next few days.

And then as I mentioned earlier, there are some graphical components to the report that don't necessarily match the narrative that precedes it. So if we could take a look at that, that [inaudible] well. And that concludes my assessment – however cursory – of the document so far.

ALAN GREENBERG:

Thank you, Jackie. A couple of comments. We were originally hoping to have the report out end of July, essentially when we left Brussels. That

clearly did not happen, for a number of good reasons. And for a number of reasons, some personnel-related, we had to have it out by the end of August, period. There was no opportunity for extension there. And some of the roughness that you have seen was surely because of that. The law enforcement, for instance, was added very near the end of the process. That survey was done much later. So I'm not surprised to find that it didn't quite hold together. But a lot of the other formatting and errors were purely due to timing that we have literally no control over.

In terms of redundancy – and I've said all this to you already, but I want to make it quite public – we were given [inaudible] format for the report which some of us objected to at the time, which essentially said when we make a recommendation, we have to, in that section, justify why it is, even if it has been said the page before. And that resulted in a lot of redundancy.

It may make the recommendations section self-consistent, but from a reader who's actually going to the trouble of reading the report, it is exceedingly redundant. And from my point of view, as a chair with no authority whatsoever, I would say rules be damned, let's make this report readable and comprehensible. For anyone who chooses to actually read the whole report, we don't want to turn them off halfway through.

That being said, we know a significant number of people will only read the executive summary, which is why we have said that there will be redundancy there, and that's simply pragmatic. And glossary, [I don't care if we] call it a glossary or an appendix, I don't much care if it's at the beginning or at the end. There are different style guides. It should

be complete and have all of the things in it. And again, for timing reasons, we may have missed that.

And lastly, recommendation numbering, I read that originally in the NCSG report, and I said, what are they talking about? Because our recommendation numbering is very consistent. If it's a follow-on to one of the first review team's one, it is R, the number of the original recommendation, and then a subnote. And if it's one of ours, then it's [CM] or law enforcement or whatever. There's only one catch, we didn't bother explaining that to anyone. So it looks like a hodgepodge, even though we did it exceedingly carefully. So that one I found interesting.

Any other comments, either in response to me or in response to Jackie? I'm looking forward to a nice, elegant, short document. Okay. Next item is discussion of anything new in the RDS environment that require additional thoughts. Now, this is here, and it allows 15 minutes, but it's a recurring thought that's going to come up as we go through everything.

I think the one thing that has significantly changed is since we last met and froze the report, the EPDP is running, we're starting to gauge what some of the likely outcomes are going to be, and in my mind, that may well influence where we go. Not that we can alter the EPDP output, but we can certainly make some comments if we feel they're appropriate.

Other than that, that's the [elephant] in the room, of course, that is affecting everything we do. But there may well be other things going on that are relevant as we go through the report. Anyone else have anything else they'd like to raise now? Susan.

SUSAN KAWAGUCHI: I am curious. We're six months out from May 25th, and I am starting to see a lot of strange things in the WHOIS records, or no WHOIS records at all. So there's definitely quite a bit of proactive – let me say this nicely – registrars that are not complying with the temp spec at all. then on the other side of it, you have a lot of registrars that I just don't think are engaged at all and have no idea that the GDPR is an issue. It's not their country, so therefore maybe they shouldn't be redacting the data.

But the WHOIS looks extremely inconsistent now in my opinion. And so, A, do we go through and sort of catalog that and say, "Here's a list of things we think are problematic," and hopefully these get resolved through either ICANN Compliance or adherence to the temp spec or [inaudible] temp spec right now? Is the temp spec really in place? Because it doesn't look like it is.

So we could write another full report on what we're seeing now, but is that our responsibility as a review team?

ALAN GREENBERG: A question, Susan. Is consistency what you're looking for? Because consistency will be exceedingly easy, [everything will be] redacted.

SUSAN KAWAGUCHI: Well, that's what's going on.

ALAN GREENBERG: That varies.

SUSAN KAWAGUCHI: Well, that's what I'm saying.

ALAN GREENBERG: For instance, I have GoDaddy domains and my information is still there in public on GoDaddy's site. The registry has chosen to redact it even though it's a Thick WHOIS. You say there are registrars who don't seem to be aware of GDPR, and that's quite compliant with GDPR. May not be compliant with the temporary spec, which was not compliant with GDPR. So I'm not sure [inaudible] consistency. ICANN's original target said we want to keep WHOIS as much the same as possible, subject to full compliance. And that's implicitly not going to be consistent. Susan, and then Chris.

SUSAN KAWAGUCHI: [inaudible].

CHRIS DISSPAIN: I'm not sure I agree with that, Alan. A couple of things. First of all, I have to say that as far as ICANN is concerned, the temp spec does comply, otherwise we wouldn't have passed it. I'm not saying there aren't other ways of complying, but we think it does.

But much more importantly, I think Susan's point is valid in the sense that fragmentation of WHOIS in a sense of an inability to look

something up for one record and being able to find it and look something up in another record and not being able to find it. Or just take your example, not having a consistent approach between a registry and their own registrar are matters that I think this review team could, if it chose to, comment on in a sort of [matter] way.

I'm not necessarily being specific, but to say the principles of X and Y matter and currently do not appear to be happening. You don't have to lay blame or any of that, just need to make a statement, say they are not happening and that is of concern. Because in truth, if you took GDPR out of the equation, we were sitting here looking at what we're looking at right now without GDPR, we would actually be saying that, I suspect. So I don't see why the fact that GDPR exist should stop us from saying it. It makes no sense to me that we would [inaudible] or we would accept by [inaudible] of not commenting on it, a fragmented and inconsistent system. Thanks.

ALAN GREENBERG:

I think one of the largest areas [where I say does] not comply with GDPR, I misspoke. It is over-compliant. And requiring or allowing registrars and registries to make decisions on their own in many areas implies inconsistency. And we may be able to fix that in the EPDP, or may not. "May not" is more likely than "may." Volker.

VOLKER GREIMANN:

Yes. I'm just wondering if us making a statement here doesn't conflict with what we had said initially when we set out that we wouldn't comment on GDPR and we wouldn't take into account the work of the

EPDP. This seems to be backtracking on that original intent, and I'm not sure if that's our mission. We have the EPDP, it's supposed to deal with that. We are supposed to deal with the WHOIS Review Team 1 implementations and the implications, and make recommendations on how to improve on those. But I think GDPR and the EPDP work are outside of our scope.

ALAN GREENBERG:

Chris?

CHRIS DISSPAIN:

I agree with Volker, but I don't think what we're talking about actually steps across that line, because I'm talking about making a statement at a principled level. In other words, got nothing to do with GDPR. Just as a general principle, the other things should apply, it should be consistent, whatever the right words are. I'm not going to wordsmith it now, but just because what is happening in GDPR is a useful pointer to the problem doesn't mean that by saying as a principle [inaudible] should happen, we are interfering with the work of GDPR. Unless of course we don't believe as a principle that those things should happen, in which case we won't make that recommendation.

ALAN GREENBERG:

My only concern is words like "consistency," you might end up with the lowest common denominator, which may not be what we're really targeting. So I think we need to consider that.

CHRIS DISSPAIN:

But that does go to Volker's point. Sorry, Alan, but that precisely does. If you're going to say, "And by making this recommendation, we might end up with this," that is now thinking [inaudible] scope. And I don't think that is our job, but I do think it's our job to make statements at a high level about what we think the service -if I can call it that - should be there for. We have already at the beginning, I think, so I think - [inaudible] need to be careful that we don't overstep the line by commenting on GDPR, but I do think some high-level statements would be useful.

ALAN GREENBERG:

Yeah. Look, we have been sitting on a fence, and a fence with sharp, pointy tops on it, in that we said we're not looking at GDPR, but we haven't been able to avoid making some reference to GDPR. And in terms of the EPDP, our report is going to be published before the EPDP finishes. The board will have to act on it, likely after the initial part of the EPDP finishes, so it'll be sort of locked in stone at that point anyway.

So we can't really impact it, but on the other hand, if we believe that there is something going on that we need to [comment on,] I think we can comment on it. We're not going to try to second guess what the EPDP is doing, and I'm not sure we have any authority, given that the board will not have approved our report until after EPDP, certainly the first phase, finishes. We're not in a position to make a recommendation that is unsanctioned by the board. So we can say what we want, it doesn't really have any impact. And I prefer to not say things that we know have no impact.

But I guess if there's something that we feel we need to say, then we should say it regardless. Chris?

SUSAN KAWAGUCHI:

So, from a compliance point of view, if you look at it and see what's going on out there, GDPR or no GDPR, there is a temp spec that has changed the policy. So if we just look at the current policy for RDS and the fact that there does not seem to be any compliance actions occurring based on either just data just – I mean it is a blank WHOIS except for registrar information, I can show you that. I can show you companies, registrars that have redacted all of their data so you don't even know which country they're in, they're a business.

And these are not necessarily registrars that [are in] the EU, so when you look at a record, either literally it's blank or it says redacted and you get absolutely no registrant information, those are compliance issues, and the open question for me from a practical point of view is, do you even bother to report these? Because I don't think Compliance has the resources to do much about it at this point. But we're seeing, again, as Chris said, the fragmentation of this is – you should at least, per the temp spec, be able to know what country a registrant is in at the very least, because if you're taking legal action, that's going to be [inaudible] decision, is where they [inaudible]

ALAN GREENBERG:

If you report it, what does Compliance say?

SUSAN KAWAGUCHI: [inaudible] I could do that in droves today.

CHRIS DISSPAIN: [Susan is] reporting enough as it is. Thank you. Look, I've come to the same sort of conclusion as Susan, but I think for a different set of reasons, because I'm conscious that what is actually happening in GDPR is not necessarily something that we should be commenting on. But it is relevant. Let me give you a couple of – for instance, it's not impossible that in March of next year or before then, it will become clear that a further sort of temporary way forward – I'm not suggesting temp spec because that is unlikely, but some further temporary way forward is necessary in order to fill a gap between the policymaking and the end of the timeframe for the temp spec.

now, in that sort of instance, comments and recommendations from this review team are relevant, and they are something that the board would take into account. If this review team said in its overview of WHOIS, irrespective of whether it is consistent “no WHOIS” or consistent [inside leg measurement,] consistency is important. That is a very important recommendation. And in deciding a way forward, even if it's only temporary, the board is going to take something like that into account.

So I think it is relevant if this review team feels that it can make that sort of comment. If it doesn't, it doesn't it doesn't. I get that. But if it does, then I don't think it's right to say that it has no power or no relevance, because I think it does. There are a number of circumstances when I think the board would look at the sort of pot of stuff in front of it to

make a decision, and included [inaudible] are going to be recommendations made by this review team.

VOLKER GREIMANN:

Just a talking point, I think Compliance now has more time than ever on their hands, simply because of the reasons that the number of WHOIS complaints has radically decreased or WHOIS or WHOIS inaccuracy complaints [that can be actioned] has been radically decreased, but we are seeing on the side of contracted parties more and more [inaudible] of the temporary specification. So we get more inquiries to that effect, how to implement that, why [are you divergent] there, what's your reasoning here. So they are focusing on that more now. It just took them a while to get the handle on what's happening and watch what's happening, and now thinking about how to address that. So that's something that's already happening there, just as an aside.

SUSAN KAWAGUCHI:

[inaudible] doing that through the registrar audit? Have they started that up yet?

VOLKER GREIMANN:

No, it's simple, normal compliance tickets again. I'm not aware of the registrar audit having been started. Maybe we're just not a part of it.

ALAN GREENBERG:

We'll be talking alter about the whole issue of oreognizing patterns and reacting to them, and I think that's particularly relevant when you

look at a registrar who, for instance, is redacting all countries. So I certainly would encourage you to submit a few of those tickets. Cathrin?

CATHRIN BAUER-BULST: Yeah. Thank you. I just wanted to say that if we were to have a recommendation that talks about the consistency, it wouldn't necessarily have to mean that there's a one size fits all, right? You could still have a differentiation according to which markets the participants are active in, you could have differentiation between legal and natural persons. So this whole idea of [leveling down,] I think, is less relevant if you look at the possibility to differentiate within that. And if we can agree that there's consistency within the different categories, then that, I think, would be a very useful thing to say, because there's no point in making differentiated rules if then there's no application of those rules.

ALAN GREENBERG: That does come [splot] into the discussions the EPDP is having, so I think we'd have to word those carefully. Any further discussion? We're going to come back to this theme as appropriate going forward.

Alright, the first item on our substantive agenda is WHOIS recommendation number one, strategic priority. That is the recommendation of WHOIS1 number 1. And I will turn it over – how are we going to work this? Do you want to sort of lead us through a quick read of what our recommendation was and then [inaudible] goes to the comments? I think it's probably best if we do that than try to go back to

the originator in each case, since you're probably more familiar than they are right now with where we are on that recommendation.

JEAN-BAPTISTE DEROULEZ: If you don't mind hearing my French accent the whole meeting, that's fine.

ALAN GREENBERG: Most people find your French accent charming.

JEAN-BAPTISTE DEROULEZ: So, I did not follow the date when public comments arrived, but what I did is to organize them reporting first those which are supporting the recommendation and then those where it's more neutral, and finally, those where there was disagreement.

For recommendation 1.1, on this, you have support from the Registrar Stakeholder Group and the gTLD registry business constituency. I think [inaudible] support from the next slide. So from the RrSG, their comment is the following: If ICANN wants to indeed be viewed as a global organization, then it is very important that they monitor and consider legislation and pd worldwide and not be overly influenced by interest with the U.S.-centric viewpoints. Do you want to comment on that?

ALAN GREENBERG: I would say certainly for the supports, Jean-Baptiste, just go through them, and if someone wants to raise [inaudible] they'll call out as Volker does.

JEAN-BAPTISTE DEROULEZ: Okay. Perfect.

VOLKER GREIMANN: Yes, just this one comment. I think even the supportive ones are helpful, and if only in making part of our argument, so maybe we should look back at our reasoning and see if we can slot some of these comments that we have received into that reasoning just to support our arguments further. I think it's helpful to take into account the community feedback, and when it supports our argument that we're making, then why not?

JEAN-BAPTISTE DEROULEZ: Thank you, Volker. So next one is just support from the [RySG,] and just wanted to note now that the RySG in their public comments mentioned that they were supporting the comments from the Registrar Stakeholder Group.

On Business Constituency, they urged review team to ask ICANN to reaffirm its commitment to RDS WHOIS as a strategic priority and follow through [inaudible] meaningful way. One suggestion is for a team to provide a timeline for setting temporary and final policies in their implementation as part of a comprehensive approach to satisfying existing and emerging needs for access to domain registration data. The needs of law enforcement alone are compelling.

Alright, moving on to next one if I find the mouse. There we go. So there is another supporting [inaudible] from ALAC. ALAC agrees with the [inaudible] recommendation on strategic priority, so that's for recommendation 1.1 and 1.2, especially as it seems as if findings from the WHOIS1 review team support its recommendation [inaudible].

There is one disagreement from the NCSG, and that's the only one. These recommendations [already] address the huge failure to address data protection that has taken place over the past five years putting the organization at risk. With respect to this objective, the NCSG has consistently pointed out the requirement to comply with data protection law. It would suffice to listen to us and assign existing staff the task of researching the matters we have raised or consulting key stakeholders.

ALAN GREENBERG: How is that in disagreement? It's saying, "We told you so," and it's saying staff should be assigned in ways that perhaps we didn't detail, but I don't see how that's disagreement. Volker?

VOLKER GREIMANN: I think you could argue that this is disagreement because they feel it's not going far enough. They would like us to go further in what we are recommending. So that would be agreement basically saying that we have recognized that there's something there, but disagreement with the approach that we're taking to address this.

But unless we are now considering opening up a whole other set of recommendations, I don't know how to best address that other than to maybe point to the next round of the review.

CATHRIN BAUER-BULST:

Yes, I agree with Volker. I also thought about this one, and really, I think the only thing I can take from it is that they would have liked us to do more of a scolding in the recommendation, but that is not the purpose of the recommendation. The recommendation [inaudible] set out a path for the way forward that is operational, specific, time-bound and whatever else you do for smart recommendations.

So I would say that we take note of this and their offer to volunteer support for the team that does the actual monitoring of legislative developments, but we don't change the recommendation per se. And I agree you could probably think of it as disagreement or not really disagreement on the substance, but regardless, I think on this one, we should take note of it, possibly integrate it into the comments, into the reasoning, as you were suggesting, Volker, which I think makes a lot of sense, and just say that parts of the community were extremely unhappy, and then we move on from there. But my conclusion on this one would be to leave the recommendation as it stands.

ALAN GREENBERG:

Recommendation two, which we haven't got to yet, says to support this mechanism, the board should instruct ICANN organization to assign responsibility for monitoring legislation policy around the world and provide updates to the board.

CATHRIN BAUER-BULST: [There they have the same comment.]

ALAN GREENBERG: It strikes me that – two things. Number one, we didn't say ICANN should reaffirm that this is a strategic priority, and I don't think it would hurt to say that, because we're focusing purely on monitoring activity as opposed to treating it as a strategic priority in all ways. And that would lead it to consultation with the community, and not in the recommendation but in the implementation note, is to interact, consult with the community on how they should best [inaudible] – Cathrin.

CATHRIN BAUER-BULST: This actually is something we discussed a couple months ago, if you remember, on one of the calls. Namely, to what extent do we want to reaffirm commitments or recommendations that were made during the WHOIS1 review team? AND we had agreed, as far as I remember, that there would be a general reference in the report that said we reiterate and endorse WHOIS1 recommendations, which I believe is there, and we haven't formulated it as a specific recommendation.

So what we could do, Alan, is either list that to the status of the recommendation, or to just highlight this and say that in the implementation, we would appreciate further updates were also given on how previous recommendations from the WHOIS1 review team have been followed up on, in particular where the implementation checks that we did showed deficiencies, as it is for the strategic priority. But I

would hesitate to just highlight [this] from the WHOIS1 review team, because that could give the impression that we think other recommendations from the first review team are not as important. So operationally, for me, that would mean that we make it very clear that we still stand by the recommendations of the first review team, and that where there are deficiencies, we could encourage ICANN to tell us in the implementation of this one how they will follow up on the deficiencies identified in the implementation to RDS1.

ALAN GREENBERG:

I don't disagree that we can emphasize that, but in this particular one, since this one is absolutely key and they [assumed] they had made it a strategic priority but clearly did not, based on how the world has unfolded, simply starting this one off as to reaffirm and in particular go on with this recommendation I don't think hurts it, and I think it essentially says something that some of us could have said in many ways, that it's not sufficient for the ICANN board to say something, they actually have to follow through and do it. And I think this is a good example, but I think their point is well-founded, and we could well say that here without hurting our overall plan. Volker.

VOLKER GREIMANN:

Yes. I'm lazy so I didn't pull up the report yet, but what did we say with regard to implementation? That it was partially implemented, fully implemented? What was our implementation stage in our report? Partially? Okay, that still fits with that comment, I think. Then we don't need to change that.

ALAN GREENBERG: Dmitry?

DMITRY BELYAVSKY: Shouldn't we suggest not only [place a] mechanism [to monitor] but also place a procedure for stakeholders to notify board about changes in privacy regulation? Thank you.

ALAN GREENBERG: I'm not sure we need a specific one, but in the implementation, making a reference to interacting [with stakeholders] I think is part of that. Just a matter of procedure, who is capturing these ideas and intends to make changes? I don't know if Jackie is, Negar is, Jean-Baptiste.

UNIDENTIFIED FEMALE: [I'm doing that.]

ALAN GREENBERG: Okay.

UNIDENTIFIED FEMALE: [inaudible].

CATHRIN BAUER-BULST: As the rapporteur for this subgroup, I'm happy to implement the changes.

ALAN GREENBERG: Thank you. So I think what we'll do is we'll do a [inaudible] to reaffirm strategic priority, we'll make sure that in the implementation note, the reference to consulting with stakeholders is there. Dmitry?

DMITRY BELYAVSKY: Well, I think consulting is not the right word, because consulting means that board initiates the communication. We need some channel for the stakeholders to initiate, to start the communication.

ALAN GREENBERG: And dialog?

DMITRY BELYAVSKY: Yes, maybe.

ALAN GREENBERG: Cathrin.

CATHRIN BAUER-BULST: Yes. And at any point in time, anyone can raise anything they want, so I'm not sure we need to set up a general channel, because it might create this expectation that somebody would notify changes, and nobody might want to take on that responsibility aside from NCSG. And they also don't cover all the jurisdiction. I don't mean this to be funny, because they do say they have raised these issues, nobody's listened to

them. But [inaudible] institute a channel by which if somebody notifies the law, ICANN is automatically bound to do something about it.

And operationally, I don't think it would have any serious impacts. We would be creating something that's just another empty mechanism, because there's no way you can rely on whatever is said, you still need to verify it. So I stand by the proposal that we made, which is that ICANN needs to set up a mechanism on its own that will do this kind of forecast and planning, and that we cannot rely on the community to do [this for] ICANN, even partially. So if we say something about stakeholder inputs, I'm happy to include that, but to create a dedicated channel, I think, is a bit over the top.

ALAN GREENBERG:

That's why I said just a more general dialog opportunity, not a specific channel. We're back at the normal, standard question of ICANN of why do we have multiple stakeholders. We have multiple stakeholders because we don't agree with each other, and although the NCSG was relentlessly saying you have to adhere to privacy laws, there were other parts of ICANN saying [inaudible] and don't put a focus on that. So just because one group says something doesn't mean that ICANN has to immediately march to those orders. So there is judgment calls involved here and balancing of things. We had Dmitry, and then Susan. Did you want a second?

DMITRY BELYAVSKY:

I want to say that regional stakeholders – and not only from Russia – often raised the queries about how they should be compliant to both

ICANN policies and national privacy regulation. I know it about Russia, I know it about the Ukraine. So that's why I think that the procedure is necessary.

But yes, the wording about dialog sounds reasonable. But the request should have practical consequences. Thank you.

ALAN GREENBERG:

But I think we have to be careful that in our recommendations, we're not talking about a detailed implementation. Susan?

SUSAN KAWAGUCHI:

Real quick – and I don't want to open this up and suggest a new recommendation, but I think what's really missing in this too – I think the recommendation is fine in the way it is, but even if the board had treated [inaudible] strategic priority, the community didn't. Right? Because we couldn't agree on anything. So this doesn't fix everything with creating new policy, because we have quite a – I don't even know how to categorize it, but with the community making policy that then has to be implemented, you see all the disagreement between the stakeholder groups, and no incentive to agree.

There's much more of an incentive to disagree with each other than to agree, which is almost a fatal flaw for the ICANN community in general. So the board could have – and I don't agree that ICANN treated this as a strategic priority, because I think ICANN org could have led us, the community, down a clear path to deal with the data issues, but even if, let's say in the best of all worlds, did, I don't think the community would

have followed that path. So maybe there is another recommendation down the way that we should rethink how policy is created for WHOIS within ICANN.

ALAN GREENBERG:

Look, the board did take action, they initiated a PDP on a new RDS system, which was supposed to factor in privacy issues. We know how well that worked. So I agree with Susan, the community did not see the urgency in coming to closure on it, and that is a real problem. It's not necessarily our problem, but it's a real problem. Cathrin?

CATHRIN BAUER-BULST:

I think we're swiftly moving to the metal level here, but [inaudible] really important point, which is – and we do reflect that, I think, in the reasoning around that recommendation, because on the one side, ICANN did recognize how difficult it would be to make progress on the WHOIS, which is why they first had the expert working group, and then the policy development process in the hopes that the PDP could build on the EWG report. Which, as we know, didn't quite happen, but you certainly can't blame the board for that.

On the other hand, the operational [trend] shows that there wasn't much priority given to the whole thing at staffing level. [inaudible] We need to think about modifying the rules so that if something is a strategic priority that is of essential importance to the continuation of the functioning of the system, that maybe we need to operate a little bit differently with stricter timelines or with some consequences if the policy development process cannot deliver that could take away this

incentive to simply not move, which still exists in parts of the community.

And I think we've already seen that de facto this does happen, because ICANN saw itself forced to adopt the temporary specifications. So the question would be whether there needs to be some thinking done about how you could address situations where the failure of the multi-stakeholder model to deliver has an essential [impact on the] organization.

ALAN GREENBERG:

I note Chris wants to speak. I'll simply point out that the GNSO woke up last January and decided that the PDP process does not necessarily work very well when there are either difficult questions or questions with highly diverse strong opinions on it. So that's well-understood. I'm not sure the board has the mechanism to fix that, but I think at least we're talking about it for the first time instead of pretending the problems don't exist, which is [what's happened for ten years.] Chris.

CHRIS DISSPAIN:

[inaudible] [I'm not about to say,] "And what problems?" Two things, I think. [Well,] sorry, actually. So yes, personally, I agree [inaudible] The question is, how do you deal with it? And I actually think it's been dealt with. So two things. First of all, the GNSO itself has got this – looking at its – I don't remember what it's called now – thing going on, but secondly, the board has initiated, started a conversation about how we can improve the multi-stakeholder – it's couched in terms of how we can improve the multi-stakeholder model, but I think everybody knows

what we're really talking about is how do we fix the GNSO's PDP process. Which involves everybody, because it involves the GAC's input, it involves ALAC's input and so on. and I think if I remember correctly, we've got a session on that, we're having a session on the in Kobe, and the goal is to try to get to a point by the end of next year where there is some coalescing in the community [inaudible] the ways that we could make this process at least more obviously having a problem in each individual thing. So timelines, for example, would indicate because you can't [inaudible] them in PDP X that there is a problem. And then how do you fix that?

So all I'm saying is I think these things are being dealt with, and whether or not it's appropriate for this review team to make any comments on them, I will not comment. But I just want to say for the record that it is being dealt with, the board is involved, because the board also actually ends up having to make decisions [that] the board actually doesn't want to make – or rather have to make – simply because the stuff that comes to the board isn't fully formed because the process doesn't work properly. So it's as much in our interest as anybody else's to get it fixed. Thanks.

ALAN GREENBERG:

All of that being said, nobody is talking about whether the GNSO council is structured properly to do the job.

CHRIS DISSPAIN:

But I think that would be part of those discussions, Alan.

ALAN GREENBERG: They're not.

CHRIS DISSPAIN: No, sorry, the discussions that we [inaudible] initiated – trust me, it will be part of those discussions.

ALAN GREENBERG: And the other part is a lot of the solutions to the problem in the GNSO's perspective seems to imply less involvement of the rest of the community, not more. So there's [inaudible]

CHRIS DISSPAIN: That may well be so, but that's not an uncommon response from organizations. It's a quite common response. [A CC's] response would be exactly the same.

ALAN GREENBERG: Going back to this particular comment, the board made life easy for itself because it chose to ignore anyone else. The GNSO could do the same thing.

CHRIS DISSPAIN: Correct.

ALAN GREENBERG:

Lili.

LILI SUN:

The discussion here [bring me to] attention to the text of the recommendations we are going to make, so the general rules, how to put up recommendations. So my understanding is the recommendation is for ICANN board. So my question is how prescriptive should be the language in the recommendations. [inaudible] ICANN board implement the recommendations?

I'm very cautious to go to the [inaudible] of the implementation methods, so I understand we are going to have some engagement sessions with ICANN board, so I would rather put the recommendations in a very general language, not relating to any implementation methods. We can elaborate a bit more when we have the engagement sessions with ICANN board. That's my personal suggestion.

ALAN GREENBERG:

Lili, thank you for dragging us back to the subject. If we're going to spend this much time talking about an easy recommendation, we're never going to finish. I think we have general agreement that we will strengthen the recommendation, reaffirm the strategic priority, put a note in the implementation that there should be interactions and it should not be purely the board acting unilaterally. And can we leave it at that? Cathrin.

CATHRIN BAUER-BULST: Yeah. I think when we reiterate the strategic importance, it wouldn't hurt to welcome the process that the board has launched and to say that our review has clearly shown that here, it is of significance also to reflect on how you run the PDPs in particular when it comes to contentious issues. That remains at the abstract level, doesn't get too prescriptive, so I think it meets your standard, Lili. Nonetheless, it does pick up this issue that we're identifying that [inaudible] to deliver in situations such as this one.

ALAN GREENBERG: Have you captured that? Okay. Jean-Baptiste, back to you, if you remember where we were.

JEAN-BAPTISTE DEROULEZ: We're now on recommendation 1.2, reviewing the support from RrSG, RySG and ALAC. So RrSG support the recommendation but also suggest that such updates also be provided to the GNSO council to enable it to initiate timely policy development processes where necessary.

[inaudible] strong support, monitoring should be comprehensive, and all reports to the ICANN board should be balanced, [free of BS,] and reflect the full spectrum of legislative and policy development. The ALAC agrees with the report's recommendation on strategic priority, especially [as it seems that the findings from the WHOIS review team to support] [inaudible] previous recommendation, and this is same comments from NCSG as well since it [inaudible].

ALAN GREENBERG: So what I take out of that is the only real suggestion for change is to request that the board redistribute such reports as appropriate. Clearly, not all of them will be something that we'll be in a position to make public comments about. So in the implementation, do a request or make such reports public as appropriate.

CATHRIN BAUER-BULST: I think we did in [inaudible]

ALAN GREENBERG: Unless we already said it, in which case we shouldn't say it again. Any further comments? Jean-Baptiste.

JEAN-BAPTISTE DEROULEZ: That leads us to the last recommendation, the [inaudible] which is R1.3. So the RrSG reports that more transparency is helpful, RySG supports that. ALAC agrees with this recommendation that any board group that starts with examining the RDS issue should be transparent about its operations, findings, consultations and any recommendations or conclusions.

This is particularly true when, as in this case, significant sums of money have been expended [inaudible] with data protection authorities, for example given the large litigation sent to the international conference of data protection privacy commissioners at [inaudible] 2017. Okay, just one second.

ALAN GREENBERG: Those are all the ones you listed in the spreadsheet?

JEAN-BAPTISTE DEROULEZ: No, I'm just checking.

ALAN GREENBERG: I don't know why [inaudible] but the spreadsheet ends at the third comment.

JEAN-BAPTISTE DEROULEZ: Alright. So that's surprising though, I don't know why it's doing that. Let me just check that [inaudible]

ALAN GREENBERG: Before we discuss the specifics, Chris, do you have anything you want to tell us?

CHRIS DISSPAIN: Should I have? On this particular recommendation, Alan, I think I've already said that – not that it affects this recommendation, but the current situation on the board is that we're not running a WHOIS caucus-y working group thingy because we don't see there's much point while the EPDP's going on.

1o there's a caucus group of board members who are closely involved in the EPDP, and of course, León and I are the liaisons. So there is a sort of a working group, but none of that has anything to do with the

recommendation, which I think is perfectly fine. But I just wanted to make the point, I think, that the working group to which this recommendation was originally referring actually no longer exists. But that doesn't change the fact that it's a worthwhile recommendation.

ALAN GREENBERG: Maybe I'm a bit confused, but is a recommendation that that a specific working group document its charter really worth the paper it's written on if that working group doesn't exist anymore?

CHRIS DISSPAIN: Well, there is also the fact that, again, it's a question of how the operates, and in general terms – general terms, let me be specific that I'm not being specific – committees have charters. The occasional working group has a charter, but not that many working groups have charters. And it's not really desperately relevant [inaudible] working group has a charter. What's relevant is that the community knows what the working group is doing, especially with respect to something like this, which I would call an outward-facing working group rather than an inward-facing working group, which for example would be something covering board [efficiency.]

ALAN GREENBERG: To be clear, is it public knowledge that this working group has been dissolved?

CHRIS DISSPAIN: I believe so.

CATHRIN BAUER-BULST: It's news to me.

ALAN GREENBERG: Then I would say –

CHRIS DISSPAIN: Public except for Cathrin. The governments, once again, have been kept in the dark. No, I think when I say it's public, I don't [inaudible] big announcement, but it is in our minutes that the working group has been –

ALAN GREENBERG: Then I think a recommendation on this particular working group is inappropriate. We may want to reform it to say any "board working group" and any group that is focusing on RDS issues should be made public and bla bla.

CHRIS DISSPAIN: Yes, that would be useful, and I suppose what you could do, if you think about it for a second, when we strung these recommendations together, this board working group on RDS was taken as a step that the board took as part of the recommendation to treat WHOIS as a strategic priority. So maybe what we could do is agree a recommendation that

says any working groups or committees set up by the board in respect to WHOIS and recommendation 1, bla bla, should do the following.

ALAN GREENBERG: Any disagreement? So reword the recommendation not to make specific reference to a group that you know doesn't exist, but apply the general principle. Noted. If our staff support team need help in rewording, we can find someone to help you with the words. If not, go for it. Jean-Baptiste. I believe that's strategic priority, and next on our agenda was supposed to be a single WHOIS policy.

JEAN-BAPTISTE DEROULEZ: Right now, it's supposed to be your first break of the morning.

ALAN GREENBERG: Oh, it's break.

JEAN-BAPTISTE DEROULEZ: Yeah.

ALAN GREENBERG: Okay. We now have a break. Do we have any remote participants? No? Okay. 15-minute break.

Alright, if we can reconvene. And for the record, Stephanie has not checked in, so we're trying to find out where in the world she is. And I guess the next ones we'll do is [inaudible]

JEAN-BAPTISTE DEROULEZ: Can I have your attention, please? So we move to privacy proxy services, Alan?

ALAN GREENBERG: No, I think outreach was next on our original list. Was it not?

JEAN-BAPTISTE DEROULEZ: Just [inaudible] WHOIS policy. Yeah.

ALAN GREENBERG: Yeah. So we'll skip over Carlton's and keep going, unless there's some other reason to delay. I don't think Carlton is – well, we'll miss him, but I think we'll survive. So let's get it out of the way.

JEAN-BAPTISTE DEROULEZ: Thank you. So here on the slide, you have two comments on the section itself. One is from the [RySG] where they agree with the determination of partial implementation for the WHOIS1 recommendation, and the second one is from Domain Name –

ALAN GREENBERG: Rights Coalition, I think.

JEAN-BAPTISTE DEROULEZ: Yeah, Domain Name Rights Coalition. Thank you, Alan. So we're on outreach and RDS WHOIS2 implementation in 3.4.4. There is a little strong evidence that any outreach targeted at non-ICANN audiences was contemplated or carried out. The Domain Name Rights Coalition disagrees since all of the groups, SSAC, GAC, ccNSO, ASO have been actively and in many cases almost continuously engaged with ICANN on RDS WHOIS issues since the date of the WHOIS1 review team final report.

ALAN GREENBERG: Maybe I'm missing something, but how does that address outreach to groups that are not part of ICANN? Does anyone see a connection that I'm missing?

SUSAN KAWAGUCHI: [inaudible]

ALAN GREENBERG: Kathy Kleiman and Michael [Kirikos] – I don't remember his name, something like that. There may be other people, but they're the ones who signed the document.

JEAN-BAPTISTE DEROULEZ: There was no acronym on there, just me putting that so that you have more space to –

SUSAN KAWAGUCHI: I didn't understand any of Kathy's comments at our open session in Barcelona.

ALAN GREENBERG: I had significant trouble with that also. Okay, I think our answer to our comment was focused [specifically] targeted at groups not part of the ICANN ecosystem, and their reference is specifically to groups that are part of the ICANN ecosystem. Volker.

VOLKER GREIMANN: Can we perhaps make that a little clearer, like neon signs that blink that this is directed at a certain target audience? So we are basically saying, yes, there has been a lot of internal communications within ICANN engagement groups, but it's clear that there's a certain disconnect with the areas –

ALAN GREENBERG: The author of the recommendation, i.e. me, will work with our editors to try to clarify that.

CATHRIN BAUER-BULST: [inaudible]

ALAN GREENBERG: Say it again?

CATHRIN BAUER-BULST: For the record, this is Cathrin recommending that the highlighting be done using the [walking ants] animation in Word for Windows.

ALAN GREENBERG: Noted. We will list the use of walking ants. Are we done with this one?

JEAN-BAPTISTE DEROULEZ: Yes.

ALAN GREENBERG: Okay. Just so we know, who is making notes on what our formal responses will be? Which will not include the references to walking ants?

CATHRIN BAUER-BULST: [How do we – you have a column?]

ALAN GREENBERG: No, we have a column on the spreadsheet which doesn't show on the slides, which is the response of the working group.

JEAN-BAPTISTE DEROULEZ: No, so that, we can – yeah, we can just update this document and then share it again just to make sure we have it captured correctly. [Does that work?]

ALAN GREENBERG: Okay. So the answer is we're specifically talking about groups not part of the ICANN ecosystem as opposed to those mentioned. Thank you. Next.

CATHRIN BAUER-BULST: I think the point that Volker made that for many of the feedback items which we received, we can very easily integrate them into the narrative at some point. I think maybe that should also be included in the column as a default, that we've included it in the rationale, because a lot of this does point either at a lack of clarity or other issues that we can address easily so that it doesn't feel as confrontational. Because if we just say "You didn't understand," it just unnecessarily creates friction.

JEAN-BAPTISTE DEROULEZ: That leads us to recommendation 3.1 on outreach, where documentation says that the ICANN board should direct ICANN organization to all of the information related to RDS WHOIS and by implication [also] information related to the registration of second-level gTLD domains. We have support from RrSG and RySG. [inaudible]

Then the Business Constituency recommends that the team ask ICANN Org to now take more informed and distributed measures to expedite community efforts to create a single RDS WHOIS policy document and provide a timeline for development, implementation and outreach.

In particular, [inaudible] to recommendation ICANN Org to reach out to law enforcement and civil security committees, engage them in meaningful dialog and incorporate their feedback. ALAC supports in

principle but only when ICANN policies on registrant data are finalized, and finally, NCSG [has repeatedly] lamented the state of the ICANN website and the difficulty a novice or even an expert with experience at ICANN has in finding and interpreting the available data.

We have recommended that ICANN hire a librarian and task them with assisting those who wish to find information on the website as well as organizing the material properly and preserving hyperlinks as a legacy ensuring that [inaudible] remains available for the future. It might be advisable to recommend these improvements as an immediate assistance measure. There is two hands raised.

CHRIS DISSPAIN:

I was going to make this comment at the previous NCSG comment. That's not actually disagreement. That just adds rhetoric and possibly useful input, but it's not disagreement. So I'm not sure that it's particularly helpful to define it as such. I would just define it as neutral, because it isn't disagreement, and neither, if I remember correctly, was the last one. It's an opportunity to talk about stuff which has got [nothing whatsoever to do with the] recommendation. So I would recommend defining those as natural and saying "Thank you for your comment."

ALAN GREENBERG:

Interestingly, in the spreadsheet, that is what Jean-Baptiste did, so somehow there was a discrepancy between what the spreadsheet says and the color of the type. Under disagreement, you have "not applicable." Volker.

VOLKER GREIMANN: Yes. I'm somewhat sympathetic to the intent of the spirit of this comment. I think as someone who regularly tries to use the ICANN website to find certain documents, it's hard, even for someone steeped in the ICANN culture and knowing what he's looking for, to find a specific document or certain points of information on that website.

And the website, I would agree also with the comment, is the principal means of outreach that ICANN has available in its hands, so anything that can be done to make this monster negotiable, as in finding your way across it, I think would be appreciated and would be a tremendous step of outreach that ICANN could do at probably very low cost.

ALAN GREENBERG: May I propose a response? Certainly, the review team is sympathetic to the comment and tends to agree, but the overall ICANN website is out of our scope to comment on. Noting that, ICANN did hire a librarian at one point, who promptly quit –

VOLKER GREIMANN: Too many [inaudible].

ALAN GREENBERG: And took a year to hire the person who then left almost immediately. That's not in the final response. And the ICANN board has since initiated the ITI to address accessibility of information on the website, not [inaudible] as Volker just implied. Okay.

VOLKER GREIMANN: [inaudible] librarian.

ALAN GREENBERG: But all of that being said, that is out of scope, but we tend to agree. Are there any further comments? In terms of the ALAC comment, I believe saying it should only be done once things are reasonably settled is part of our implementation, but we need to verify that it is. The ALAC said support in principle but only when ICANN policies on registrant data are finalized. Not sure we used the term “finalized,” I think we may have said that – we used the term “the dust has settled,” but I believe we do have that. Next.

JEAN-BAPTISTE DEROULEZ: Thank you. On recommendation 3.2, so this recommendation was with community input, the ICANN board should instruct ICANN organization to identify which groups outside of those that routinely engage with ICANN should be targeted effectively through RDS outreach. So here we have support from RrSG, RySG and ALAC. RrSG supports, however, the cost for such outreach should not increase the ICANN budget. RySG supports that. ALAC supports in principle but only when ICANN polices on registrant data are finalized.

And the NCSG finds that it is not clear what outreach needs to be done and why it is a high priority, particularly given the lack of readiness of the data and the current limbo situations with respect to any replacement for WHOIS or RDAP implementation. At the very least,

there are much higher priorities than identifying a target audience for information as yet unprepared. We would recommend dropping this recommendation.

ALAN GREENBERG:

Comments? Or do you want me to? The comment on the registrar saying the budget shouldn't be increased, I don't think we have control of the ICANN budget. We certainly could put an implementation note that we believe this should not be a major undertaking, but whatever. I understand the registrars are legally obliged to put that into every comment.

VOLKER GREIMANN:

I don't think that's [inaudible] I just think the intent was not to change anything about the recommendation but just to make sure that we at least reflect that in the language of the reasoning to make sure that ICANN is mindful of its budget when implementing this.

ALAN GREENBERG:

I'm not sure how I could phrase that politely. The other comments on the registrar one – registry, we don't need any comments on. ALAC, again, the implementation implies don't do it until we're finished, or perhaps says that explicitly. And NCSG, I open the floor to comments.

Part of their comment certainly is that we're not ready, and again ,we do address that, I believe. In terms of much higher [inaudible] I'd be amenable to making it medium. One of the issues is when the whole GDPR-related stuff is settled, registrant data will be handled very

differently than it was today, and reaching out to registrants who are not part of the normal ICANN ecosystem, I believe, will be critical. Reaching out to other people may be less critical, so it may be a mixed priority.

VOLKER GREIMANN:

Two comments. One, reaching out to registrants, I think that is the main job responsibility of the registrars that have the contracts with the registrants, so I don't see ICANN taking the responsibility of making that contact in the information, but rather, ensuring that the information that the registrar has to provide to their customers includes that information. So basically, include it in the documentation that the registrar has to provide to its customer, but not make it an outreach [inaudible] has to do to the registrants.

The second part, I understand that – I think where this comment is going is that they're saying it's premature because we don't know what RDS is going to be in the year down the road, and I certainly have some agreement in myself for that position. So if ICANN were to spend millions of dollars in outreach [inaudible] all kinds of communities with regard to RDS and then RDS is changed in half a year's time on [what will stay,] then that would be a waste of money.

ALAN GREENBERG:

I believe this was another one saying, "Don't do it now."

VOLKER GREIMANN: That reflects the priority thing. if you say it's high priority, then that seems to be us saying, "Do it now." so reducing the priority is probably the right step. Reduce the priority to maybe not medium or high, but say, "Do it when RDS has settled." Because that's the ideal time to communicate.

ALAN GREENBERG: Okay. No, we need to look at the wording of [inaudible] versus timing to factor that in. And in fact, different aspects of the communication may well have different priorities and different timing. Cathrin.

CATHRIN BAUER-BULST: Yeah. Thank you, Alan. Two points on that. I think we had two purposes in mind here. one was to inform everyone once the dust has settled about what the new rules are, but the other purpose, which I think is already reflected in the recommendation, is that we also need to make groups aware who are not yet part of the ICANN process that there are changes forthcoming and to pitch in with their views.

And to give you just one concrete example, we realized very recently – we found the hotline [– hotlines actually in every EU member state] and a couple other European states that you can report child sexual abuse images that you come across on the web. And what we didn't realize was that those hotlines then forward information to law enforcement relied on the WHOIS to identify which websites the material was hosted on.

So those hotlines' work will be immediately impacted by the unavailability of this information. They're not public authorities, they're privately-run enterprises, not-for-profits, rather. And we have many examples, no doubt, of such groups which are as of yet unaware of these changes happening are perceiving that there is less information available and don't even know where to take their issues because they're unaware of the existence of this whole system that governs how information is accessed.

So I believe it is actually of the essence that that outreach happens now on the changes that are happening, and then there should be a separate outreach effort once the new rules are in place to inform everyone about [inaudible] one year, one relating to the work that's going on, and then the second part relating to the rules once they are in place. So I believe this is high-priority and this should happen now, before it is too late.

SUSAN KAWAGUCHI:

As usual, I have a comment. I completely agree with you, Cathrin, and I think that part of this recommendation include the inaccuracy reporting, which it's very clear when you look at almost any data that ICANN provides, when it comes to the global south, they just are completely uninformed about what is going on with ICANN. So there's very few inaccuracy reports in the global south. That's a target area that I think ICANN recognizes. There's definitely been a lot of inroads, and you hear a lot of discussion at times about the global south, but I think that I agree with Cathrin that there are issues that are not going to change that need to be understood by registrant and internet users in

general, and it would be very helpful that this stay at a – I could go down to a medium priority maybe on this one, but it's somewhat high-priority because this education has been lacking or not very effective, and we just need to keep at it and maybe needs to be tweaked, maybe needs some pivoting, but it's a critical area that we need to address. I think it's important we leave it.

ALAN GREENBERG:

Thank you. We do have a separate recommendation on the global south, or parts of it, on the accuracy part. So I'm not sure I want to recommend it here now. But what Cathrin is saying is a clear departure from this original recommendation, which said, "Don't really do anything until the dust settles." And you're suggesting we need a communication program that applies now, and it really, I think, is a second recommendation given that the board will not act on this until next June, July [inaudible] Is that something we still feel is appropriate, to do something prior to the dust settling? Or is it really something whose time will have passed by then?

CATHRIN BAUER-BULST:

And maybe it's a misunderstanding on my part, but I read the ongoing – where is it? There should be an ongoing commitment to ensure that as RDS policy and processes change, the wider community and their [inaudible] beyond ICANN normal attendees community is made aware of [this.] And I thought that that applied already now. of course, we are a bit late with everything, but nonetheless, it also looks like everything

else is going to be a bit late and that it might not be too late to provide useful input.

If we're completely changing the nature of this recommendation, then maybe it's a misunderstanding on my part, and then indeed, we could consider whether it would still be useful. I would submit that it is based on recent experience to reach out a bit more, and I also heard that there were stakeholders trying to contribute who in fact were trying to join the NCSG, as I understood, and were refused access because they weren't pursuing the right objectives. But I cannot – what I was told at Barcelona by a number of organizations who were then seeking to [somehow] join the Public Safety Working Group instead, which of course is not possible for nongovernmental organizations.

ALAN GREENBERG:

Let's talk about that privately, that's an interesting issue. Negar.

NEGAR FARZINNIA:

Thank you, Alan. Just [to put] the timing in perspective in terms of implementation of these recommendations, as you pointed out, Alan, board is going to make a decision on the recommendations June, July timeframe, and it would still be a few months after that before we have an implementation plan that can be put into play for the actual implementation effort. So the timeline for when this recommendation actually could get implemented is, I want to say, at about a year out from now. So do keep that in mind when you're talking about having a communication plan now versus one that gets implemented when RDS

changes are finalized, because it could be one and the same depending on the timing of when the report is finalized and action is taken.

ALAN GREENBERG: You're more optimistic on the EPDP than some of us are. Okay, on reading it again, we do say – we imply [inaudible] that the dust settling on this one, but it doesn't really say that here. So I think we need to look at the implementation plan and make it clear that even if the dust isn't settled, there may still be some activity that is necessary. So I'll go over that with Jackie. That is an action item for me. Jean-Baptiste.

JEAN-BAPTISTE DEROULEZ: So if there are any [inaudible] or comments, we can move to compliance.

ALAN GREENBERG: Oh, we finished this section. Okay, the question is, do we want to do compliance next or data accuracy? The reason is Cathrin may have to leave at around 3:00 this afternoon.

CATHRIN BAUER-BULST: 3:30.

ALAN GREENBERG: 3:30. And I think we want Cathrin's input on this one. Susan, do you mind if we switch this? And Lili, are you okay if we go to data accuracy

next? Let's go to data accuracy then, which is recommendation number which? Oh, Volker.

VOLKER GREIMANN: Before we move on to the next topic, Stephanie has just mailed the list that she's delayed. She's currently in Heathrow and will probably arrive at Brussels in about two hours. Delayed from participating in the group, but according to her own schedule, so she will probably arrive this afternoon at the earliest. More in the e-mail list. Sorry to interrupt.

ALAN GREENBERG: So to be clear, she planned on arriving a day late.

SUSAN KAWAGUCHI: Yes.

ALAN GREENBERG: Without telling us. Okay. Stephanie is obviously going to have significant input on data accuracy. I don't believe we can afford to wait, however. And it was scheduled for today. I'd like to [move to] data accuracy.

CHRIS DISSPAIN: Sorry, just to be clear, Alan, she says she'll be here this afternoon. She's going to be in Brussels in about two hours, so she should be here later on this afternoon. If you wanted to roll it, say, to 3:00, there may be a chance. Sorry, I apologize, of course, Cathrin has to go. Then we must proceed.

CATHRIN BAUER-BULST: [inaudible]

CHRIS DISSPAIN: Let's proceed.

VOLKER GREIMANN: Could we also take something that she will would probably not have so much to [inaudible] the schedule of tomorrow and move that ahead? No, I'm looking at common interface or issues like that, and move the data accuracy to that part.

ALAN GREENBERG: We put things like compliance and data accuracy today so we'd have time to revise. Now, is our joint dinner tonight? So we're not likely to do a lot of work tonight to revise. So there's not a [inaudible] between today and tomorrow, but that only leaves one day.

CATHRIN BAUER-BULST: [inaudible]

ALAN GREENBERG: Let's see if we can find something right now. Well, if we're not going to do that, let's do compliance.

CHRIS DISSPAIN: I still don't understand [inaudible]

SUSAN KAWAGUCHI: Yeah, I think we should move forward with [inaudible]

ALAN GREENBERG: Okay.

CHRIS DISSPAIN: We really should just move forward, guys. Come on.

ALAN GREENBERG: Okay.

SUSAN KAWAGUCHI: She made it [inaudible]

ALAN GREENBERG: No, but I was trying to make sure Cathrin is here for the data accuracy one, which is why I moved forward –

SUSAN KAWAGUCHI: Yeah, and I absolutely agree with Cathrin doing that.

ALAN GREENBERG: Oh, ignoring the fact that Stephanie [inaudible] Yeah, got it. Okay.

VOLKER GREIMANN: I still think that she probably planned to be here for that, because the schedule says it's there, it's at 3:00, and she'll be there at 3:00. So she might have planned for that. And moving it ahead is kind of deprives us of that side of the input.

SUSAN KAWAGUCHI: Well, it's not that we would deprive her of commenting. We can take another half hour somewhere in the next couple of days [inaudible] her input.

ALAN GREENBERG: I'm just reluctant to have to go over it all twice. It's a big section. Chris.

CHRIS DISSPAIN: I just think that we started off saying we're going to deal with it now because we wanted Cathrin's input on this, and I just can't see [inaudible]

ALAN GREENBERG: Okay.

CHRIS DISSPAIN: I don't want to be difficult about it, and I frankly don't care at the end of the day, but seriously, we need to get on with this.

ALAN GREENBERG: Data accuracy it is.

JEAN-BAPTISTE DEROULEZ: So on data accuracy, we've got one big comment on the section itself from RrSG where they remind ICANN that data accuracy is achieved by providing all customers the tools, rights to access, correct and/or update their information and by establishing internal procedures and processes that ensure the data provided by the customers remain accurate and complete. Article 5.1(d) of the GDPR does not require people or customers to ensure the data they have provided themselves as part of the underlying transaction was in fact accurate. Any suggestion to the contrary is a misinterpretation of the GDPR.

Furthermore, since the signing of the 2013 RAA sections [1(a)(d)] as well as 1(f) of the WHOIS [inaudible] program specification has been implemented. Implementation of these five sections has resulted in near-perfect address accuracy and contactability rate. As of January 2018, postal address operability is 99% and postal address syntax accuracy is 88% up from 80% three years earlier.

ICANN's own key findings include that nearly all WHOIS records contain information that could be used to establish immediate contact. In 90% of records, at least e-mail or phone number met all operability requirements of the 2009 RAA.

ALAN GREENBERG: Is anyone familiar with where this data comes from? He says looking at the registrar at the table.

LILI SUN: I believe this statistic is coming from the [ARS] regular report.

ALAN GREENBERG: So if I understand correctly, the ARS reports say 40% of records have an error in them, but they still have some contact which appears to be correct. Is that the interpretation of that?

LILI SUN: So the interpretation of the standard or requirement is different here. 40% quoted in the draft report is based on the meet all the criteria's for all fields, like for e-mail address and for phone at the same time meets the requirement to be reachable. If you look at specifically for maybe the phone number or e-mail address separately, [ICANN has a higher rate of contactability.]

ALAN GREENBERG: But are these number reference to all, or just the post-2013 or post-2009?

VOLKER GREIMANN: I think the comment is precisely directed at the improvements that have been made since the original recommendation of the first review team have been issued where contactability was an issue and the main concern of the recommendations made by the first review team. The comment here seems to be saying that, yes, this has been achieved

because contactability is now up to, I think, what are they saying? [99% proposed versus –] and even the syntax is up to 88%. So in most cases, contactability as a goal has been achieved even though the perfect 100% accuracy of all data is not quite there yet. But that hasn't been part of the original recommendation.

ALAN GREENBERG: But in this in reference to the registrations for which validity checking has been done, or all registrations?

VOLKER GREIMANN: I think this is for all registrations. At least the comment doesn't make any differentiation between that.

ALAN GREENBERG: I think we need a little bit of homework to make sure, because my understanding – I don't think anyone has audited all of the registrations, entire registrars nor ICANN, so I don't see how we could make those statements in the general case. We can make it for ones with respect for which the validation or verification is being done, but as we know, those are only new or transferred domains.

VOLKER GREIMANN: Like I said, I didn't write the comment, so I'm not quite 100% sure what they're basing that on. But I think what I heard in the discussion was that this was based on the ARS, which made general statement with regards to accuracy. While they differentiated between grandfathered

domains and non-grandfathered domains, overall numbers are reflected here. But I would have to check on that.

ALAN GREENBERG:

And of course, in a post-GDPR world, the fact that the postal address may be valid doesn't really matter if no one can get access to it for instance. Cathrin. I'll let Cathrin go, and then Volker.

CATHRIN BAUER-BULST:

Just a more general comment, because of course, [inaudible] premise, which is that we don't actually need accuracy because it's not an obligation. I think there are two different interpretations of the GDPR there, particularly article 5.1, and I just wanted to recollect what the European Union's input on this was, which was to say that there is a requirement as to data accuracy, and that is in respect to the purposes for which the data is processed. So if you collect data for the sole purpose of reflecting information [inaudible] registrant for whatever purpose that registrant might have, then indeed it would be totally up to the registrant whether or not they take issue with the data being inaccurate.

If you have any further purpose, such as transparency around domain name ownership or general purposes of stability and security and so on, where there is an interest of another purpose in the accuracy of the data, then it is a bit short to say you don't have to pull the registrant. You don't necessarily have to pull the registrant, but there is an obligation to ensure accuracy of the data, because there are purposes

that don't solely relate to the interests of the registrant in ensuring the accuracy of the data.

So I cannot agree with the first part of the comment which basically says that there is absolutely no obligation to ensure accuracy other than if the registrant complains, and I note that here the comment from the Union very clearly says that every reasonable step must be taken to ensure that there is rectification and that there should be compliance also with the data quality [principles.] And there is explicit reference, actually, to the relevant section in the Expert Working Group report from 2014 which had more detailed recommendations on this, including on the accuracy reporting system.

So I have to say that with the first part, I disagree, and I would say that our recommendation here should stand as it has been formulated. And when it comes to accuracy, I would just note that the fact that there's contactability of [an individual] does not mean accuracy for the purposes of the GDPR, because it could be any given individual. Just the fact that there's syntax accuracy has nothing to do with the accuracy principle under the GDPR. Thank you.

ALAN GREENBERG: Cathrin, can you make sure Jackie has those appropriate references?

CATHRIN BAUER-BULST: Yeah.

ALAN GREENBERG: Thank you. Alright, who will try to formulate a response to this? Cathrin, you've covered both of these. Would you mind trying to write a brief response that we can insert into [both the comments?]

CATHRIN BAUER-BULST: Sure. I'll be happy to work on that.

ALAN GREENBERG: Thank you very much. Let's go on to the first specific one. Sorry, we still have a general one.

JEAN-BAPTISTE DEROULEZ: We still have a general one, which is from the Business Constituency. The temp spec allows redaction without consideration of data subject, EU or not, or legal entity. The contracted parties claim that they cannot reliably make these distinctions because the data is inaccurate. The convenient solution [inaudible] prescriptive. The long-term solution that is most beneficial for all parties and the one that we recommend the team emphasize lies in improving data accuracy to the level where contracted parties can be confident when making data subject or legal/natural person distinctions.

ALAN GREENBERG: I think our response to that is, "Noted." Do we need to make any adjustments because of it? Volker.

VOLKER GREIMANN: Yes. I think this delves into the EPDP more than what our mission is, so I think “Noted” is probably the only thing we can say, and point to the policy efforts on the way, that we say this is not part of our recommendations or our mission but rather something that the GNSO has to deal with. It’s not an argument that we have to make either way, it’s not our mission here.

CATHRIN BAUER-BULST: Yes, I totally agree with Volker that [inaudible] we say here, but we could note in the rationale that of course one benefit of greater data accuracy would be that we could be more confident in distinguishing as appropriate according to the new rules as to whether you’re dealing with a legal entity and where that entity sits.

SUSAN KAWAGUCHI: And I don’t disagree either with Volker, except that the problem with the data accuracy the way the judgment is made by ICANN and reviewing these records is oftentimes the data is very accurate, but not accurate for that person or that entity. So the data is good data, it’s [that street,] that address exists, it’s just the data does not – you cannot contact – you could contact somebody at that data, you could not contact the registrant, which seems like a huge disconnect in what we’re trying to accomplish here. So we may want to go back and look at the discussion part of this [inaudible] and emphasize that, even though I think I probably have added that many times.

ALAN GREENBERG: Cathrin.

CATHRIN BAUER-BULST: And just to reiterate, that's really not accuracy as it is defined under the GDPR. Accuracy doesn't mean that it's a street address, accuracy means that it's data relevant to the [inaudible].

ALAN GREENBERG: Of course. There was a case where I found a completely valid street address, the registrant was just sloppy enough to put an illegal postal code instead of the one that actually corresponded to that one, which made the whole thing invalid. And it was all spurious anyway, but nevertheless, it could have looked valid if they had bothered to find out what the right postal code is. So there's all sorts of variations to this, and we're not going to fix every sin here.

Alright, so our comment will be "Noted," and reference to the EPDP, it's in transit. They may well be right that that's the direction the EPDP is [inaudible] but we're really not in the business of crystal ball-gazing about where it's going to end up. Next.

JEAN-BAPTISTE DEROULEZ: Alright, that leads us to comments on the recommendation 5.1, which was the ICANN board should direct the ICANN organization to look for potentially anomalous [inaudible] results, for example [inaudible] generated tickets closed with no action because the RDS WHOIS record changed between the time the [inaudible] report was generated and the time the registration was reviewed by ICANN Contractual

Compliance to determine the undermining cause and take appropriate action to reduce anomalies.

So there was one supporting comment from ALAC supporting recommendations for determination of causes of data inaccuracy and actions to be taken to address the inaccuracy. And then [two other] [inaudible] where they wondered what purpose does this recommendation serve. The review team seems to draw conclusion from thin air instead of accepting the most reasonable explanation that due to the time lag between the data query in the [inaudible] program and eventual Compliance review, the code is most likely simply [inaudible].

The [RySG is one of the] opinion that recommendations should address actually existing issues that are evidenced by data instead of initiating fishing expeditions. They also note that they consider it highly doubtful that the [inaudible] program can be resumed under the GDPR and other applicable privacy legislation as it [requires] accessing and processing nonpublic personal information for no valid purpose. And [RySG supports the RrSG] comment.

ALAN GREENBERG: [inaudible]

JEAN-BAPTISTE DEROULEZ: Yes, there are some [others.] And the last comment on this recommendation is from the NCSG. The review team has done great work in compiling the work that ICANN has done on registrant rights

and responsibilities, and this report will be a good [inaudible] for those who attempt to fix this problem.

However, this very detailed section should remain as [resourceful] for [inaudible] work. We do not see merit in developing new accuracy recommendations when the entire dataset for publication is about to change. NCSG recommends removing this recommendation unless, as your footnote indicates, something arises which merits further action.

ALAN GREENBERG:

Alright. We'll let Cathrin go first.

CATHRIN BAUER-BULST:

Thank you, Alan. [inaudible] comment because I think two of the responses sort of mix two concepts. One is public, and the other is personal data. And one doesn't necessarily have anything to do with the other. so the nature of data as personal data is not affected by whether it's public or not, and accuracy of data principles apply to personal data that is processed for any purposes, as long as that purpose requires accuracy, which for most of them, it does, that's the purpose of processing it. You need to have some sort of a quality assurance.

And I disagree with the parts of the comments that simply because there may be a data set in the future that is limited in terms of what's publicly available, we have absolutely no obligation, nor does ICANN have the right, to check accuracy of the data that's not publicly available. If that were to be the issue – I could see depending on the purposes that the EPDP agrees on, as long as there's any purpose that

relates to somebody other than the registrant, we would still have to have sort of a mechanism in place, and if [inaudible] the contracted parties instead, that's something to consider. But as of now, I don't think we can take this comment onboard as it stands.

ALAN GREENBERG: Volker.

VOLKER GREIMANN: I think we need to take this comment into context of the recommendation, which is very specific here. We're saying that there is a potential anomaly with regards to the data [inaudible] generated. Basically, we don't know a reason for that, so ICANN should look at investigating what that reason might be for this so-called anomaly.

And the two points that the RrSG is making here is, A, there may be difficulties in figuring out if this so-called anomaly will persist in the future if the ARS is phased out or replaced by something else, because access to that data is now very different than it used to be. So the question is [inaudible] can even continue, and the second part is, is this 40% difference between tickets closed and for record changes between the time – like the report says? [Is that really an anomaly that] warrants deeper investigation? Do we have any evidence that there's some form of malicious activity behind that number? [inaudible] just a number that is generated naturally because of the difference in time between ARS doing their work and Compliance coming to it?

So take that comment as part of that recommendation, and it becomes clear that the recommendation will have to be reworked, or at least severely looked at.

ALAN GREENBERG:

I don't think there's any question that the recommendation will have to be reworked. Susan and I spent a fair amount of time with Compliance, and I think we have a better understanding, so let's try to separate the issues of the specific thing we were looking at in the recommendation from the other issues. Susan, do you want me to try, or do you want to try talking just about the anomalous part that we were commenting on in the recommendation, and then we'll review the other comments separately? I can give it a stab, or you can start as you wish.

Okay. Looking at the raw numbers, the anomaly part was if you presume there is no collusion and no leaking the names to get them corrected ahead of time before Compliance looks at them, it was hard to understand why so many of them have changed. What that said is of the ones that were selected by the random sample, of which 40% had some sort of problem in them, the vast majority of those miraculously got adjusted. And yet we know that – let's say I think it was something like 60%, I don't remember the exact number – of the 40% got adjusted. That's 25% of records changed by the time they were looked at.

We know the overall change rate of WHOIS records is not 25%. I don't know what the number is, but 25% [is probably] too high. So, why are these records subject to 25% change when other ones are not? And that was the anomalous part.

There are a number of issues that became obvious to us. Number one, Volker had mentioned a number of times the amount of time it took. I don't think anyone understood what that time was. At least I didn't. This is a sample that is drawn in January. The report is issued about five months later by the ARS people, and then it could take six months or nine months for Compliance to look at it, conceivably almost a year and a half after the sample was drawn. I certainly didn't imagine the number was like that.

Now, part of that is artificial because Compliance rate limited the number of these they do a day, so implicitly, they were going to be drawn out. The second [inaudible] what constituted okay from Compliance's point of view is a change. Doesn't mean the data's any better, just means it's different.

Okay. There was an unanswered question out of the first WHOIS review. The one recommendation which was not addressed is, does the WHOIS reminder letter do any good? And the answer always was, "Shrug. We don't [know.]"

Now, in foresight, one could have said the WHOIS reminder letter has to be tracked as to when you send it. Registrars do track it. Registrars do track when the WHOIS record changes. No one attempts to rationalize the two together. How often are there changes to a WHOIS record within a month after the WHOIS letter goes out? We don't know. But that could well be an issue that comes up here. That was one of the triggering issues.

We know there's a high turnover in domain names. Lots of domain names are not renewed. I don't know what the percentage numbers are. there's no reason to believe the random sample is selecting them better than others. But there's a lot of things in play.

So it looks like it's all innocent, there's nothing malicious. We do need to better understand why Compliance is now tracking the closure reasons more detailed than they do before, but there's no [inaudible] Many of the changes that were instituted in the last six months which would have applied to the current set of [ARS] data which is on hold.

So there are already things in transit which might be affecting these numbers and help us understand them. We don't still really understand them now. There are still some anomalies. But it's not quite as mysterious as it was before. So I'm not quite sure we need this recommendation as such [inaudible] as it is today. Susan?

SUSAN KAWAGUCHI:

Thanks, Alan. I think you captured everything. I don't know why I [inaudible] I didn't take the time to review them. But these are all reports with redacted information, actually, for some representative samples of the [inaudible] of – I don't remember which report it was, but they were just trying to show us different things, and there were definitely patterns that we could see. Some of these just expired before Compliance took a look at them. They were selected in the report and then they expired. Some were just change to proxy providers, and I would assume that, well, the next group will be [inaudible].

So who knows how effective this will be. I think it's a good point that we did talk about the reminder letter. It would be good if we could figure out how effective that is. Is that really worth the requirement to send those? I'm not sure that's something we want to add to a recommendation.

What did come to mind, and it is one of the questions I had written down, was, can we find out what percentages of deleted domains per the registry? Because I think we're going to see a lot of that. That more just would be handy to know. I don't know how critical it is to know.

The biggest thing that came out of the meeting for me with Compliance is that they were providing reports that seemed very clear to them but was [simply] not clear to us. And we spent almost three hours there, I think, Alan. And a lot of that was walking through and trying to figure out what the category headings meant and what the information really meant.

And both Maguy and Owen were really helpful, and I think all four of us came out of there going, "Oh, this sort of clarifies a few things." I wasn't as worried about it. So they were going to change how they organize the data, which I think will be helpful going forward.

UNIDENTIFIED FEMALE:

They already have added a very large number of different categories. At some level, that granularity's going to make it more difficult, because there's only tiny few numbers in each one. But it was already one, but it was done, I think, after the last ARS sample was completed.

SUSAN KAWAGUCHI: And I haven't looked at that. I had one more point, and it went. Go ahead and I'll [inaudible]

ALAN GREENBERG: Volker, let me ask you a question. If we were to make a recommendation saying registrars should produce statistics – and I'm not trying to [inaudible] exactly the relationship between the last change to WHOIS and the date of the WHOIS reminder letters. Do you keep a history of when the reminder letters go out, or just the last one? I know you're just one case.

VOLKER GREIMANN: Okay. So this is absolutely nonreflective of overall registrar community position that we have. We have a record of when we send out these reminder letters simply because we usually combine them with our renewal reminder, so we reduce the numbers for that. That also means, of course, that these reminders are sent out at the time when many registrants will be looking at their domain names anyway because they have to renew them. so we don't actually [inaudible] whether the renewal reminders are the trigger, [the fact] that they have to log into their account to maybe update their credit card that has expired is the trigger that makes them look at it again, or if it's the WHOIS data policy reminder.

So there may be all kinds of triggers at around the same time that happen that would make it very difficult to see whether it is actually the reminder that triggers that update that happens.

ALAN GREENBERG:

I'm not sure how much interest I have in trying to do it, but one can probably formulate the question somewhat differently to factor in both the reminder and the renewal date to try to understand whether these changes are likely coincident with one of those or not. If I can think of something in the next day, I'll propose it. If not, we'll let [it drop.]

So I think at the very least, we want to make a recommendation that the statistics reflect not only whether there is a change but whether the problem is rectified, because they are told why the ARS rejected something. So that at least, I think, we would like to do. Whether there's a lot of other merit in this recommendation at all, I'm not 100% sure right now.

Cathrin.

CATHRIN BAUER-BULST:

I just have a follow-on question, because it makes a lot of sense to me that you can't really relate what changes are made to what sort of recommendations [then.] I have heard from some registrars that they have a differentiation between the set of data that they use for billing purposes, which is one set, and the set of WHOIS data. And if you're just renewing your domain, there wouldn't be any reason necessary to update the WHOIS data. So I'm wondering whether we could

nonetheless draw some conclusions from that. But of course, that wouldn't hold true if you use the billing data to populate the WHOIS. So I was just wondering whether for you it's two separate processes [or rolled] in one.

ALAN GREENBERG:

Let me speak, because I'm not speaking on behalf of a specific registrar. I think virtually no registrar uses the WHOIS data for their own internal accounting and business relationships. That has become really clear in the EPDP, and I think that is a universal statement.

It turned out one of the temporary spec statements was for the billing purposes, and virtually everyone said no. So I don't think we can rely on that information, plus I don't think any registrar is either obliged to or probably should try to correlate the WHOIS with the billing data. And I have registrations where the billing data is completely unrelated to what it says in the WHOIS record.

CATHRIN BAUER-BULST:

And just to continue my point, if there is no correlation, then I think you could nonetheless draw certain conclusions from the fact that the WHOIS data [inaudible] because if there's no occasion to do so to renew the domain name because it's not necessary, then if the registrant does it nonetheless, you could at least venture to draw a conclusion that that's happening because you're also reminding them at the same time about the need to keep the WHOIS data accurate. But that's just to posit a possible conclusion.

ALAN GREENBERG: Volker described how he does it. Other registrars [separate the] processes completely. He's trying to [minimize interactions,] other registrars try to maximize interactions on the hope of getting more business. Volker.

VOLKER GREIMANN: Yeah, that's just domains that we have registered with us directly. If we look into the reseller marketplace, it becomes a whole different ballgame. For example if we register domain names for Google, then we won't send those reminders, but they will. They will tell us that they have sent them out with certain log files. And other resellers [do similar][inaudible] It's a pure sense of how far you can go without violating your compliance obligations.

ALAN GREENBERG: Alright. Does anyone here feel that this recommendation as it stands – or close to as it stands – should be retained?

SUSAN KAWAGUCHI: One of the things that Maguy emphasized to us, Alan, was that Compliance, even though they seem very well-resourced, she was expressing a concern that there may be longer time periods in reviewing WHOIS records, A, because they may not have access to data, but also, they were having some staffing challenges. I don't know, I can remember her saying she had some people that were out on maternity leave, so pregnancies. And if there's a resource issue, then that could

make this more challenging and a longer timespan between when these are generated and actually reviewed.

ALAN GREENBERG:

That's not the subject we're talking about here, but let me make a comment anyway. In another recommendation, we talk about Compliance and talk about their resources have gone up significantly. If indeed the situation [remains] roughly what it is today where for Compliance to do anything, they have to ask the registrar, "Please, sir, may I have the contact information," I don't know what the number is, but we are significantly increasing the work of Compliance to do their job today.

I think the registrars who have repeatedly said, "We don't want ICANN's budget to go up," really need [to consider] how Compliance is going to respond to this. I personally have said that I believe Compliance needs access to WHOIS information, period. And there should be a path because of their IP number that their question is coming from that they should not have to ask, "Please, sir, may I have the data?"

But if that doesn't get fixed, then Compliance's workload is going to increase significantly in this new regime, and I think that's going to [inaudible] ICANN in general. So although I'm sympathetic with Maguy saying they can't continue to do the 4000-5000 WHOIS tickets that come out of ARS in today's world, I don't think today's world is sustainable in any way. And I don't know whether we want to mention that somewhere. It's not in this report, it's not in this recommendation, but we may well want to factor that in.

Lili, do you have any [inaudible]

LILI SUN:

So far, if I captured correctly, we still don't have a reasonable explanation about the figures here, 40% changes here. We still don't have any reasonable explanation on this.

ALAN GREENBERG:

I think we do have a reasonable explanation. I think 40% of WHOIS records have problems in them. [If we think that's a statement,] the fact that we still have rather poor accuracy, and based on the ARS numbers, it's getting worse, not better. [It's a question of why the numbers are cleared once they're reported,] I think we now have a more believable understanding, but unless you presume that the ARS program is maliciously selecting bad domains – and I don't think anyone is presuming that – then I think this is simply reflecting the fact that our WHOIS accuracy is not good. I would use another word.

VOLKER GREIMANN:

Maybe you read a different ARS report than I did, but to me, it looked from the report that numbers were improving over time. Accuracy, or at least contactability was improving from report to report. So I don't see where you're getting the numbers from that [inaudible] turned for the worse over time.

ALAN GREENBERG:

There's a table in the report that says – I think the second one was 24%, the third one was 33, and then the last two were 39% rates of tickets compared to the sample size. I believe those are the numbers. I may be wrong on the 20-something. I'm pretty sure 33, 39, 39 are the numbers there. Whether it's going up or down and it's in the 35% range doesn't say a lot about accuracy. In most worlds, that would be considered a pretty poor record. But not surprising given the history.

So I can't defend the question of anomalies there, of why they were suddenly fixed, which is what we were questioning in that report. I still don't think we understand it, but when you break it down to each of the causes, they're a small enough number. And remember, when they reported them, when they said 24%, they meant 24% of the tickets, so it's 24% of 40%, which is only 10%. And because they didn't cascade the numbers but listed them all separately, the numbers looked bigger. And they couldn't understand us talking for a good ten minutes because we were making reference to one thing and they were in their head doing the multiplications, and we weren't.

So I have a hard time defending this recommendation [inaudible] there's something that needs to be done with ARS, and I'm not quite sure how to word it.

VOLKER GREIMANN:

Question being if there's going to be in the ARS in the future.

ALAN GREENBERG: Well, what I'd like to now do is go over the individual comments, and I think that comes up in spades. Lili, please go ahead.

LILI SUN: Yeah. I have one additional comment. I constantly hear about the definition or interpretation about the data accuracy. [inaudible] comments during the previous ICANN meeting, and the priority concern about the WHOIS1 review team is about the contactability. I do disagree with this judgment, and for accuracy, from my understanding, data should be formatted [correct,] and also, it should be corresponded to the registrant. In this context, the ARS accuracy report system only did half of the job.

So if the major concern is contactability, why we should [inaudible] data contactability, not as data accuracy instead? So I insist that we stand the position as the definition or interpretation of the data accuracy as two parts. You need to be formatted correctly, and also corresponding to the registrant data.

And also, yeah, Volker commented that the ARS project, whether it will be resumed in the future or not. And [during the] time when we drafted the terms of reference of this review team, that we would give a very general statement that GDPR may have impact on this review team's work, but we are not in the time to give exactly the description of the impact. But as of now, we still don't have any concrete statement [to make] on this.

And I share your concerns, Alan. Also [inaudible] figure out how to make a recommendation on data accuracy. So based on my findings, the data

accuracy is not optimistic at all. But there is no other methods except the ARS to improve the data accuracy. So I believe there's still a need for recommendation generated based on the ARS project.

ALAN GREENBERG:

I'd like to try to separate out [subjects] of how do you fix the accuracy problem – and in my mind, there are other answers. Not necessarily palatable for other people, but there are other answers. You'll recall we have another recommendation later on the grandfathering of what validation registrars have to do. And that certainly is a way of addressing it. It's not necessarily a palatable way to some people, but it's a way of addressing it.

I think in some levels, the GDPR and EPDP requirements that the data be accurate for the purposes for which it's collected are one of our strongest assets. Now, that doesn't say the EPDP ends up doing it properly, but there's a chance it might. So I think we have to separate out.

I'd like to spend a little bit of time now going over the particular comments and seeing how we react to it, because I think that might help drive what direction we go in. So, [can we go to] the comments that are negative?

Alright, that's the NCSG comment. I think the comment that the data is not going to be publicly published is irrelevant. The data will be available to selected groups, lawfully available under whatever the mechanism is, and therefore, it is the accuracy for those people who have access to it for which we are concerned. If no one ever had access

to it, we don't really care if it's accurate or not. But some people will have access, and therefore, it's that data.

The fact that it is not publicly viewable and therefore you can't have dilettantes [inaudible] – and I believe we have the citations that Cathrin mentioned in the GDPR that justify why we need accuracy even if it's not public data. So I think we'll address that comment that way.

I still believe we need to address the recommendation, and I don't feel comfortable saying exactly how that should be right now. It's conceivable we could remove the recommendation altogether. I would at the very least like a recommendation that the treatment of ARS data, of the ARS tickets by Compliance be altered to validate the data, not just recognize if it's changed or not. But I don't [inaudible] saying anything past that. Anyone else have any thoughts? Cathrin?

CATHRIN BAUER-BULST:

Yes. From listening to this interaction, it seems that what you were trying to achieve with this recommendation really went into two directions. One is the sort of metal level of, is Compliance sufficiently resourced to tackle issues effectively? Right? That's the whole issue that you discovered when you went to discuss with Compliance [where the] anomalous rate came from.

So if we park that for one moment and then tackle the other issue about accuracy in view of everybody said, I'm wondering whether it would be helpful to go for a more general recommendation that's not so much tied to ARS as a process. And of course here, I'm [completing] Compliance in the accuracy of data issue, but if really [as such] would be

put into question, and of course, for us, it would not be helpful to make specific recommendations that only relate to that process, rather, then it might be helpful to say something more general about how data quality can be ensured and what standards might apply in that context.

So one solution could possibly be to separate the two issues and make separate recommendations out of them, and then stay more general on the accuracy one and also be more abstract on the Compliance issue as of whether Compliance is adequately resourced [inaudible] the issues that are brought to them,

ALAN GREENBERG:

Okay. I think a few things come out of that. One is not in this recommendation, but we talk about Compliance resourcing somewhere else. And I'm not sure we have a recommendation on it. It may have been one of the ones that we simply said, "Well done," and we walked away from it. But I think we want to put a bookmark in that if indeed – it is conceivable that some of the EPDP be such that the work that Compliance does is much more complex and time consuming than it is today.

If that is the case, I think a recommendation saying Compliance must be properly resourced to do its job even in the event that its job becomes much more complex or time consuming because of the GDPR implementation, I would think that would be a very important recommendation to make.

So if in the end, Compliance can simply go to a keyboard and get the contact information, fine, that's what they do today. If under the EPDP

implementation, they continue doing that, not going to the public WHOIS but going somewhere else, fine. If they are going to have to write “Pretty please” letters to the registrar and handle the response that comes back or the nonresponse that comes back and track that no responses come back, then I think the resourcing they have is going to have to change because of that. And I believe even though it’s in the realm of the EPDP, I believe it’s a recommendation that we need to make, because we can’t wait five years to make it.

Does that sound like a reasonable bookmark to put in place? We need to discuss [inaudible].

VOLKER GREIMANN:

But isn't the question of what access Compliance will enjoy part of the access discussion that the EPDP will have? So basically, are we infringing on the scope of the EPDP by making this recommendation here?

ALAN GREENBERG:

We’re simply saying we don’t know how it’s going to come out. Most of us have no influence over it. And if it comes out such that Compliance has ready [access to] the information, fine. Our recommendation is inoperable, whatever the world is. On the other hand, if the result of the EPDP implementation is such that they do not have ready access and they will expend significant more resources, their resources must be increased to allow them to continue to do their work effectively. I see no objection, so if we can make note of that, please.

I had another comment, but I can't remember what it is now. Oh. We are in this unique situation. In a normal GDPR-type implementation, the controller has the data. So for instance – well, most cases, controller or the [processor] has the data. Here, it's distributed. There's a discussion on the table right now in the EPDP on whether OCTO could have access to data for research.

One of the recitals in the GDPR, recital 50, says you can put data to alternate uses that you don't tell the data owner about if they are lawful and reasonable, a reasonable extension. But that presumes you actually have the data. In our [case,] if OCTO wanted to do that research, they would have to ask each registrar or registry, "Pretty please, give me the data." The registry can say, "I don't think this is a valid purpose. Go away."

VOLKER GREIMANN: [inaudible]

ALAN GREENBERG: David Conrad's, the Chief Technology Officer. So we're in a rather awkward situation that is atypical, and the same is true here. I would think the kind of stuff that ARS does in an organization where the data was present [inaudible] So I think we need to keep it. And I think we need to recommend that the ARS be maintained. And I think that now requires a special recommendation that we believe, like the first WHOIS review, that there is still an accuracy issue. The current ARS data indicates that. Accuracy is important in its own right and under GDPR, so we believe that an accuracy [inaudible] program is essential. And I

would think we will need that recommendation to replace this one. Go ahead.

VOLKER GREIMANN: I think if you replace accuracy with contactability, then we might get there. Because that's what you actually want. You want an ability of a third party to be able to contact the registrant, or a different contact if they may exist.

ALAN GREENBERG: Is that not going to be a harder thing to get?

VOLKER GREIMANN: Accuracy is very broad. Contactability is more narrow in its scope and easier to achieve.

ALAN GREENBERG: How do we audit it?

VOLKER GREIMANN: [By contacting –]

ALAN GREENBERG: Remember, the ARS had three phases. The third phase is make sure the data is usable. And we haven't gotten to that, because we don't know how to do it, and we may never. And the last report from the ARS said we may never do it because of the difficulty. So I like setting my targets

high, but setting them at an impossible level, I question whether we can actually do that.

VOLKER GREIMANN:

Sufficient level of accuracy to enable contactability. That would be something probably. Doesn't mean that every i now needs to be dotted, every t needs to be crossed, but as long as the data can be used by a postal service to find whoever lives at the house next to the [inaudible] in Costa Rica, that would be sufficient.

ALAN GREENBERG:

But that's already there. One of the reasons that some of these ARS reports are closed is because the address is completely bogus from a viewing point of view and according to the postal services' rules, but is deliverable. And those get closed. And that's fine. Now, it's not practical for the ARS automated system to recognize that, but they are addressed and they don't end up in problems because of that. But I'm not sure how you legislate that.

The example I give is my wife has relatives in Ireland that you give their name and the name of the village, that's it. It gets there. [inaudible] rules, but it gets there. So I don't know how you legislate that. And we've already been told many times, certainly in the EPDP, that paper mailing addresses have no value because no one's ever going to use those. They do get used for things like subpoenas, of course, but –

VOLKER GREIMANN:

In most cases, it has to be the e-mail address –

ALAN GREENBERG: Okay.

VOLKER GREIMANN: [That's the form of] communication that we have in that [context,] and that usually has a very high level of accuracy, at least in our experience.

ALAN GREENBERG: Alright. I think we need to say that – and I'm going to put things in quotes – the ARS must continue. Whether it continues in its current form or in something else – so accuracy/contactability must be something that we can ensure, even more so because the data will not be necessarily public. Volker?

VOLKER GREIMANN: Maybe instead of [inaudible] because that is basically – the ARS doesn't ensure anything but it allows the community to form an opinion on what the current status is, and [what measures need to be –]

ALAN GREENBERG: I'm not trying to wordsmith.

VOLKER GREIMANN: Yeah.

ALAN GREENBERG: Okay. So a recommendation saying we must have some level of contactability/accuracy monitoring, [give us a] high level of confidence in the data. And the issue that we have to put on hold somewhere further is resourcing of Compliance if necessary.

Okay. [inaudible] further? Done. How are we doing on time? When is lunch scheduled?

JEAN-BAPTISTE DEROULEZ: 12:30.

ALAN GREENBERG: And it's 12:30. Lunch. This meeting is adjourned until – what time do we return?

CATHRIN BAUER-BULST: 1:30.

ALAN GREENBERG: 1:30. We'll reconvene in approximately one hour. Thank you all.

[END OF TRANSCRIPTION]