JEAN-BAPTISTE DEROULEZ:    Alright. Good morning, everyone, Jean-Baptiste speaking. Welcome to RDS WHOIS2 plenary call 43, face-to-face meeting number four. This is day three taking place on 12 of December, 2018 at 8:00 UTC – 8:13 UTC. Attending the call today, we have Lili Sun, Alan Greenberg, Susan Kawaguchi, Erika Mann, Stephanie Perrin, Carlton Samuels, and Dmitry Belyavsky. For ICANN Org, we have Jackie Treiber, Alice [Jansen,] Negar Farzinnia, and myself. There are no observers in the observer room, and only one apology, Chris will be a little bit late today. Today's call is being recorded. May I please remind you to state your name before speaking? And I will turn the call over to Alan. Thank you.

ALAN GREENBERG:    Thank you, Jean-Baptiste. I believe [inaudible] item that was on our revised agenda is to discuss the comments from ICANN Org, which did arrive very recently. So I'll turn it over to Alice.

ALICE JANSEN:    Thanks for having me. Alright, so you may have seen in your inbox this morning there was an e-mail sent by Jean-Baptiste which includes ICANN Org input on the draft report and recommendations. So the input is essentially request for clarifications or updates that we thought might be useful for you to have as you finalize your recommendations and reports, but it's not intended to discuss the merit of the recommendations, obviously. It's just a helpful guide.

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So, this first – can we move to the slide – yeah. So the first item that we have on the list is we noticed that there were assigned priority levels, but there was no definition associated [inaudible] priority levels per se. So that's an important element as you try and understand how you want to phase the implementation, potential implementation and what the criteria are for this priority level.

And as you consider these definitions, we would also invite you to factor the EPDP, GDPR developments, and also the need for community input. So I think one of the recommendations I recall suggested that the community should be consulted, so this takes time, as you know, so it's also something that needs to be considered as you elaborate on your priority level. Any comments?

ALAN GREENBERG:          Go ahead.

NEGAR FARZINNIA:         Thank you, Alan. I just wanted to add to that by saying the reason we're bringing this up is because for some of the reviews, priority levels have timelines associated with them. For example, for CCT, there are notes that define a given priority level as must be [completed in] 18 months of whatever time. And, A, that's why we're asking if you can define what the priority levels mean to the review team if they are just in the order of a high priority item should be implemented before a medium-priority item, or a high-priority item should be implemented within X amount of time if that's what you mean. So we need that definition.

And B, that's why we're thinking for elements that for example would involve [consulting the community,] there is a timeframe associated with that, so if you have a timeframe in mind to recommend with the priority levels, certain elements have to be taken into consideration, or the implementation of the EPDP, etc., in terms of when implementation could begin for certain items.

ALAN GREENBERG: Thank you. I guess the potential difficulty – we're asking, so, what do you mean by the priority – is first of all, although obviously there are overall resource limits, in many cases, we're looking at recommendations that will be addressed by completely different parts of the organization, and I view high-priority as it should be started immediately. Medium and low refer to how much it can be deferred, should there be a resource issue. At the same time, one doesn't want to put a priority on something that really isn't all that important but should be considered sometime. But it's the interaction of the complexity and the time it's going to take to do it to the actual amount of effort that's going to have to go into it. so it's a rather difficult thing to do. We can certainly try. Go ahead.

NEGAR FARZINNIA: Thanks, Alan. You made a really good point about the fact that sometimes, [inaudible] associated with implementing something first, and sometimes priority level is not necessarily because something is critical but because it requires due attention and should be considered. Might I suggest a note to be added to each session with a

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recommendation to define briefly the priority level for that recommendation as opposed to one standard note that applies across the board for [inaudible]? For example, to say this priority has been marked as high, and this is why. Just because I get the sense that you're not requesting implementation to be done in three months, for example, you're just saying if this has high priority, do it before you do the one that has the low priority in terms of resource distirubtion.

ALAN GREENBERG: Or initiated. If we're making a recommendation that the board should take action to cause something to happen, it's a whole string of events that are going to happen before anything really changes. And therefore, you shouldn't delay for three years starting the process, even though - starting the process is not going to be particularly as intensive, perhaps, as actually doing it, but you'll never get to the doing it if you don't start it. Stephanie.

STEPHANIE PERRIN: It seems to me you don't, by any chance, have draft of your five-year plan? Because we've been talking about this five-year plan. I think it would be helpful to sort of peg it in a five-year plan, but ultimately more useful to figure out what the dependencies are. Many of these cannot be implemented until we finish certain things. So it might be a high priority, but there's no point in starting it until we find out what's happening with, for instance, the EPDP. So that, I think, might be more useful even than us deciding whether it's a high priority.

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ALAN GREENBERG:     You don't have to put your hand up.

NEGAR FARZINNIA:     Thanks, Alan. Thanks, Stephanie, also for your comment. What you're saying is pretty much in line with what [inaudible] too in that there are dependencies, as Alice pointed out, on the results of the implementation of EPDP and the GDPR and the future of RDS for some of these recommendations. We should be taking into account there are a lot of other items that the recommendation would require for us to look into before we can start implementation, and that's why I think part of the implementation planning that we do in the future once the board has accepted the recommendations, which [inaudible] we always look at dependencies and we list what the dependencies are which rolls into the implementation planning and the timeline when something can start.

So maybe with Jackie's help and the review team's support, we can, like I said, just define at a high level for each recommendation the definition of that priority level, or a brief statement in the document somewhere to apply to all across board would be sufficient.

ALAN GREENBERG:     Let me ask – I'm not sure [inaudible] either propose or suggest a possible way forward. You'll remember yesterday we talked about some recommendation – I don't remember which one –that we said, well, there's really a split priority. Part of it has to be done quickly and the other part can be deferred. Instead of trying to assign a high, medium or low in a simple word, which makes it really nice to build a table, but

doesn't necessarily help ICANN in the implementation – if instead of trying to assign a high, medium or low [inaudible] two to try and describe when we believe this should be done and what the target completion date should be.

NEGAR FARZINNIA:      That would be super useful.

ALAN GREENBERG:      Yeah. Again, you can't say we have five medium, three low and 17 highs, but it may provide better guidance.

NEGAR FARZINNIA:      Yeah, absolutely.

ALAN GREENBERG:      Okay.

NEGAR FARZINNIA:      Thank you.

ALAN GREENBERG:      I hope that doesn't violate a rule.

NEGAR FARZINNIA:      None that I know of.

ALAN GREENBERG:     You can always make one. [inaudible] let's proceed.

ALICE JANSEN:     Actually, why don't we jump to slide 15, Jean-Baptiste? Since we're talking about timelines, implementation and so on. So we noted that a number of recommendations – and they're listed here, 1.1, 1.2, 1.3, 15.1, LE1 and LE2 – sort of opt for a six-month implementation timeline, so the recommendation should be completed within the six months. But as you know per section 4.6 of the ICANN bylaws, the board has six months to review the final report and to consider he review team's recommendations, so this should be factored in as well, that you have, say, a six-month window for the board to review the report and determine whether to accept the recs or not. So this is something that should be factored in as you develop the definitions.

ALAN GREENBERG:     The first RDS review team made statements of, "You should do these things within three moths and six months of delivering our report." I don't think we do anywhere. I don't remember timelines, for instance, on LE1 and LE2.

ALICE JANSEN:     Yes. So these are recommendations that Cathrin worked on, and I think you, Lili, as well. And so if you look in the implementation details, it says six months there.

ALAN GREENBERG: Okay. I'm sorry. I must have missed that. Surely, it meant six months after the decision is done to need to do something. And I understand the implementation planning as well. We'll take that into account and try to make it real. I will point out, However, that for the first RDS review, the board didn't take action until there was a plan, and you're telling us that's not the order things will be done in the future?

NEGAR FARZINNIA: [inaudible]. The board has to take action on the recommendations. So for the WHOIS1 review, there was as little bit of a change in process that's not something that's practiced today, not under the new bylaws. And I think the timeline is maximum six months, and [inaudible] the implementation planning timeline that we have talked about over the past couple of days.

ALAN GREENBERG: Yeah. It was under the AOC also, that certainly – because if you look at the timeline, the board took action typically six months to the day because that was hanging over their heads. There was never any discussion before in the AOC or in the bylaws of when the planning can start. But now you're telling us the planning will not begin – but surely, ICANN Org [inaudible]

NEGAR FARZINNIA: [inaudible] planning in place, there's a feasibility assessment that's done just to look at implementability. And once the board approves the

recommendation, then ICANN Org starts the actual detailed implementation planning that defines step by step essentially what needs to happen and the resources needed to get the work done at a more detailed level than just that high-level overview. And that's needed to start planning for everything, to start implementation.

ALAN GREENBERG:        But that depends on the recommendation. If the recommendation says the board should do something, that doesn't require six months planning. It may require a briefing to be written for them, but it's not necessarily a six-month planning with resources allocated.

NEGAR FARZINNIA:       Correct. There is no set timeline for implementation planning. It could change from recommendation to recommendation. However, I believe there is a note in the bylaws, and I have to pull that up, that ICANN Org puts an implementation plan together and sends it to the board again for their review, and once the board says implementation plan looks good, we'll get started. And I have to find out if this is a formal action or not, but there is some time associated with that for sure.

ALAN GREENBERG:        We'll take it into [inaudible]. I presume your staff is going to be looking at things as we proceed.

ALICE JANSEN:

Any additional comments? No? Okay. So why not [inaudible] slide seven? So for the strategic priority related recommendation, we just wanted to highlight that there was an initiative that was launched by ICANN in April 2018 that seeks to identify legislative efforts across the globe early on to raise awareness within ICANN and consider potential impacts, including how these legislative initiatives may have unintended consequences which may be avoided.

So this sort of echoes what you have in the recommendations, we feel. There's alignment there, so we would invite you to review these materials, consider whether you want to edit the recommendation or keep it.

ALAN GREENBERG:

I'll give my inclination. My inclination is to keep it there, and we're giving you a present. You can say, "Done." But it will be tracked next time around to see if you really did it. That's the merit of keeping it.

DMITRY BELYAVSKY:

I want to say that these reports are covering all the ongoing legislative initiatives, but in fact, we need to go – well, at least some years backward, because I know that in Russia, in Ukraine and in some other countries, there are legislative regulation formed in – well, 2015, I say, something like that. So identifying current legislative efforts seems to be not enough.

ALAN GREENBERG:          I think we should note that in our text. I presume Jackie just took a note. Someone took a note.

JACKIE TREIBER:          A coordinated effort.

ALAN GREENBERG:          I'm happy to have people [inaudible] It's a nice refreshing thing. Alice?

ALICE JANSEN:          Alright. So let's move on to this following one. This is related to outreach. So the SMEs would welcome some insights from the review team on whether you have [made] specific insights on the [rules and] requirements that would be needed for the web documentation. So they want to understand what is really needed here so they can refine the page [inaudible] some of the specific needs and so on. And also, they would love for you to review the current compliance-related pages and advise whether improvements are needed there as well. So just to understand.

ALAN GREENBERG:          I think the question illustrates the problem. One of the things we pointed out is there is a WHOIS portal with all sorts of documentation. There is a huge set of pages [inaudible] compliance with a bunch of documentation. They don't necessarily point to each other, they don't necessarily say the same thing, and that's one of the problems. So the fact that we're talking about compliance [inaudible] versus the other

part is one of the problems. And we'll try to make that as clear as possible.

now, whether we do not have a compliance section and a WHOIS section but merging together to something usable and actually, heaven forbid, have the departments talking to each other – I know, we don't want that. But yes, we will take that into account and try to be clearer. Negar.

NEGAR FARZINNIA: I do want to add, not related to recommendation 3.1, and to remind you again for recommendation CM.4, you do want to have a conversation with Compliance to have them add something to their pages so that we can remove the recommendation. Just as a note.

ALAN GREENBERG: Yeah, I'm a little concerned that a conversation may not yield the end result and we will have already withdrawn the recommendation, but if that happens, so be it. Well, I shouldn't say "So be it" without Susan's acknowledgement, because it's her recommendation. But hopefully, we can work together [inaudible]. Alice.

ALICE JANSEN: Thank you. Jean-Baptiste, next one. So this relates to the common interface, recommendation 11.1, and so we've just pasted the text here from ICANN Org. Might be easier for you to read. But essentially, based on the review team's suggested implementation, it appears that the metrics and [S&As] in the recommendations are intended for use by

ICANN Org as mechanisms to proactively identify compliance [inaudible]. ICANN Org would like to note that there are multiple reasons queries can return blank fields or no results. It is not possible [inaudible] determine the causes of these results. Additionally, for the temporary specification, gTLD registration data results could differ between registries and registrar outputs. Therefore, inconsistencies in registrar and registry gTLD registration data outputs are not necessarily compliance issues, and ICANN Org would also like to inform the review team that the existing WHOIS lookup tool and WHOIS lookup tool and WHOIS.icann.org will be updated in the upcoming months with a new tool built for that. It is [possible and intended] that the new tool would function in such a way that no data would be collected by ICANN Org. There.

ALAN GREENBERG:          Two comments. I don't believe we wrote this recommendation to identify only compliance issues. I believe in some cases there are things that were broken or timeouts that perhaps are more stringent than they should be and [point to] compliance issues ,but if they do point to compliance issues, then there's a compliance issue. So I'm not quite sure I understand that, and I don't understand the references to no data would be collected by ICANN Org. No data is collected by ICANN Org right now. Right now, it's passed through from one mechanism. It may be passed through from another mechanism. And lastly, they say that because [inaudible] and perhaps because of the EPDP policy, registrars and registries may return different things. And that was a problem we're identifying that we want fixed. So it's a statement of fact, but that's implying that it's a fact they can't get around, and what we said is

show them both if they're different. Volker, do you have any comments on this one? This one was largely yours. I certainly didn't view this as purely to identify compliance issues. Yes, please go ahead.

SUSAN KAWAGUCHI:     So, it sounds like there's a misunderstanding here, and I'm wondering if we didn't make it clear enough not only in the recommendation but in the discussion and the report. So maybe we should look at that and be more clear about what the issue is. Because really, I agree, it's not a compliance issue, except that the timeouts and the refusal to provide information from registrars, that is a compliance issue. And also, there's no statistics to know really what's going on. I can show you a lot of screenshots saying couldn't get the information because it's been timed out or other [inaudible]. And then I don't know what we can do about what the records actually hold. That's a different issue.

ALAN GREENBERG:     Volker?

VOLKER GREIMANN:     Just to strengthen the point Susan just made, under the RAA, there are no SLAs with regards to provision of this service to ICANN, so there are abilities and the rights for registrars, for example to do access limitations or ensure that the service is not harvested. So the failures can result from these, and these wouldn't be compliance issues because there's no obligation to consistently provide to the same requester whatever the number of requests per hour is that comes in. So the

failures that Susan maybe seeing when she's doing the reviews may be perfectly legitimate under the RAA but still would be very interesting to see how many failures there are if there is a need to change the policies to make it a bit more usable, which wouldn't be a compliance issue but would be an issue for future contractual negotiations or PDPs to discuss, to find ways to solve that problem. So it's not compliance that we're looking at, it's just looking at what are the causes for failure, and how can we move forward on those? I think that's the main drive behind this recommendation, not compliance.

ALAN GREENBERG:	remember, RDS review team 1 did not say this must be how it is implemented, but it was implemented as a service, and if that service for instance requires that ICANN approach the registries – and we're looking at the pre-RDAP world – through a different port number and are treated differently than Tom, Dick and Harry, then maybe that was a requirement that they should have negotiated. I'm not going to say it is. [inaudible] problems even then. Removing rate limiting from ICANN might have other unforeseen consequences if people then attack ICANN – let me finish – but – so the bottom line is, yes, no data in a particular instance might be because of how it was implemented and there's nothing we can do on the very short term. It might be because this registrar never returns anything, and in that case, it is a compliance issue. So we certainly weren't implying that everything was a compliance issue, but some of them might well be, and we need to try to differentiate. Just throwing up our hands and saying, "We built a service but we have no control over whether it's ever going to work or not" is not how I was taught to build services.

SUSAN KAWAGUCHI: And if they're rate limiting my requests through the ICANN website as if they would know it was me, or if [inaudible] IP address, if they're going to rate limit at ten requests, that seems a little bit – you know, so maybe we should address the fact that there should be a reusable rate limiting. And we could go very detailed if we need to, but I'm not looking up thousands per minute. And you have the Captcha, so maybe if I'm really quick, I can do one per minute. That seems like a reasonable use of the tool. And I'm not sitting on it ten hours a day. But with the handful or even, say, 200, 250 lookups in a month, if I'm getting a 40% timed out rate, either somebody's got it in for me, like every registrar is going, "Oh, god, we'll block her" – I doubt that it's that. I just don't think the tool works very well. And maybe [inaudible] sort of issue on ICANN's side that causes that timeout. I have no idea.

ALAN GREENBERG: Before Volker, just quickly, I don't think the registrar knows who you are. So one of the questions one could ask is, how many queries an hour on average does ICANN get and pass on to selected registrars? And obviously, there are registrars that have larger install bases than others, and they would get a predominance of them perhaps, but we don't even have that number. Volker.

VOLKER GREIMANN: Yes. You're exactly right. Registrar will never see who's using the ICANN tool, the ICANN platform. However, ICANN platform is viewed by most registrars as just another requester, so as more and more users are

going to the ICANN platform instead of registries or the registrar WHOIS service, that ICANN server is probably the most active service [inaudible] requester platform that a registrar sees, and therefore the most likely to be access limited because of the high volumes that will be coming in. That might explain some of your results.

SUSAN KAWAGUCHI:        Right. If I can respond to that. So actually, maybe ICANN should not be time limited. The whole idea of this tool was so that there could be one central source. So it seems to me that if we had [inaudible] the registrars would have to allow more hits from the ICANN tool than a normal lookup from another entity.

VOLKER GREIMANN:        [inaudible]

SUSAN KAWAGUCHI:        Yeah, why not? I just assumed it was whitelisted. That makes sense to me, but obviously, not everything makes sense in this world.

ALAN GREENBERG:        Look, [inaudible] several decades since I've implemented tools like this, but I have no trouble coming up with a number of possible solutions. Negotiate something with the registrars, whitelist it. ICANN can use 100 different IP addresses and rotate among them. There's no shortage of ways one can address it if you believe you should have a will to address

it. And our recommendation is figure out how to make this work if this is the definitive portal that you're recommending. Next.

ALICE JANSEN: So the next item – thank you – refers to the law enforcement needs section. So on this one, we would invite the review team to clarify what regular refers to in the recommendations, and also, if you could potentially refine the scope of the survey that you're envisioning so that we're 100% clear what the purpose would be.

ALAN GREENBERG: Cathrin is not here yet. Let me give my two answers. I'm sure we can come up with some regular, six months a year or something like that. In terms of the second one, I think this is going to be an iterative thing working in conjunction with law enforcement people who are present at ICANN. I don't think this review team can give perfect guidance for the next five years, nor do I think we should try. By the way, do we need to answer these questions in writing, or will you take back our verbal comments?

ALICE JANSEN: We'll be taking back the verbal comments.

ALAN GREENBERG: Okay. Sorry?

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| NEGAR FARZINNIA: | Just said this way, we are hoping there's less work for the review team to do. We'll just take the comments back. |
| ALAN GREENBERG: | Thank you. Alice? |
| ALICE JANSEN: | Thank you. |
| CARLTON SAMUELS: | [inaudible] |
| ALAN GREENBERG: | If you use your microphone, you can. |
| CARLTON SAMUELS: | Yeah. The scope here refers to what? Who is included in the survey, or the elements that are drafted in the survey? What doe scope mean in this context? It means both? |
| NEGAR FARZINNIA: | Our understanding is that it refers to both, or at the very least, elements. |
| CARLTON SAMUELS: | Okay. Thank you. |

ALAN GREENBERG:      Yeah. The bottom line on this is the bylaws say we should evaluate, which means that ICANN –the fact that they are asking this review team to evaluate it means ICANN has an interest in knowing, and our answer is it's not sufficient to do it once every five years, especially in a very volatile area where we know there are going to be changes in a far shorter timeframe than that.

ALICE JANSEN:       So moving on to the next one, safeguarding registrant data. So for this one, there's a request for clarification as well as a reference to the RAA. So the ICANN Org would recommend review team to clarify how this differs from the principle [1F] of article 5 of GDPR, and whether the review team meant to refer to baseline requirements versus uniform requirements. And then the reference to the RAA 2013 is section 3.2, per this section, the registrars are required to notify ICANN within seven days of any unauthorized access to or disclosure of registrant account information or registration data. [inaudible] we wanted to flag for this one.

ALAN GREENBERG:      Okay. That's one of mine. If we missed 3.2 – I thought we had caught it, because I thought that was pointed to near the end of our process. if we missed it, we'll certainly adjust that I believe we did make reference to GDPR regulation. Whether we should echo them or not, the issue is that not all contracted parties are subject to GDPR, and therefore, we cannot rely on GDPR to provide the necessary tools. And do recall when we

started, we hadn't been looking at GDPR at all, but when we did look at it, we did put in words saying we shouldn't have a subtly different set of rules to make life more difficult for those are GDPR. On the other hand, we do have lots of parties who might not be subject to GPDR, and our intent is to make sure that everyone is covered. Volker.

VOLKER GREIMANN:     Yeah. This is a different recommendation. I think also a point that we were trying to make was that we found that the registry and registrar obligations with regard to data breaches were not 100% aligned, and we felt that as they were keeping the same data for their customers, at least with regard to WHOIS data, they should be aligned, there should be identical languages in both agreements, and ICANN should work towards that.

With regard to the GDPR, we felt that ICANN should not spell out exactly what a registrar would have to do in order to be compliance, but rather, use the same methodologies that the GDPR has used in directing what kind of measures would be [expected] to ensure against data breaches and formulate a reporting mechanism to ICANN.

ALAN GREENBERG:     To be clear, we did not put ourselves in as experts in this area, but we said, "Make sure experts are brought in to do it, whether they're internal to ICANN or external, and do consider the fact that many contracted parties will be subject to GPDR, and therefore alignment may help." On the other hand, there was some caution that we didn't

want to impose exact GDPR rules if indeed that was not what we needed.

NEGAR FARZINNIA:     So Alan, should we take an action item to have you review the section with an eye towards the section 3.2 of the 2013 RAA For this section of the report?

ALAN GREENBERG:     I think I said I would already, but I have no problem recording it as an action item. Alice?

ALICE JANSEN:     Thank you, Alan. So moving on to the compliance-related input, [inaudible] there's no confusion. 4.1 and 4.2, just the [ICANN overall need to] highlight that actions to mitigate our contracted parties [prerogative] and sanctions are unfeasible based on the current policies and contracts in the context of these two recommendations.

ALAN GREENBERG:     Please remind us what the recommendations [inaudible]. I perhaps sadly have not memorized them.

ALICE JANSEN:     And maybe they have changed since given the two days you've just had, but hold on, I'll just pull these up.

ALAN GREENBERG:    That may be true too, but we're not going to hold that against you.

JEAN-BAPTISTE DEROULEZ:    So R4.4 is the ICANN board should direct ICANN Contractual Compliance to proactively monitor and enforce RDS data accuracy requirements to look for and address systemic issues. A risk-based approach should be executed to assess and understand inaccuracy issues and then take the appropriate actions to mitigate them.

R4.2 is the ICANN board should direct ICANN Contractual Compliance [inaudible] failure to validate and verify RDS WHOIS data as required by the RAA. When such a pattern is detected, an audit should be initiated to check if the registrar follows RDS WHOIS contractual obligations and consensus policies.

ALAN GREENBERG:    Yeah. Now let's look at the comment again.

JEAN-BAPTISTE DEROULEZ:    Yeah.

ALAN GREENBERG:    Actions to mitigate our contracted parties' prerogatives and sanctions are [inaudible] based on the current policies. Okay. Looking at the recommendations now, I think the sanctions is a somewhat gratuitous one, because really, what that was saying is it was not invent new

sanctions but take actions as appropriate under the RAA if in fact you find regular problems. Whether that's an audit or disembowelment or whatever the rules are in the RAA. So that last sentence, the sanctions sentence may well be something that we shouldn't have if it is being read as invent new sanctions. Lili, please.

LILI SUN: I remember why I called it sanctions here. It means [inaudible] the accreditation of the registrars as depicted in the 2013 RAA. So yeah, I agree with you, we're not like introducing new sanctions in this recommendation, just urge the registrars to follow the contractual obligations.

ALAN GREENBERG: I am a bit troubled by this sentence saying sanctions are unfeasible based on current policy. Inventing new sanctions may be unfeasible, but there are sanctions mentioned there, and they do take them in a semi-regular occasion. So perhaps you can go back and find out, did they misunderstand us, or are they simply saying we're not going to take sanctions anymore against registrars? Volker.

VOLKER GREIMANN: Yeah. When you're saying that actions to mitigate our contracted parties' prerogative, that's partially true, but the goal of this recommendation was not tell the contracted parties how they should have to perform their validations or verifications but rather look at the complaints that are coming in and see if there are contracted parties

that may not be implementing their obligations to verify and validate, because every complaint that you get for that registrar clearly shows that – common sense would indicate that they [inaudible] the validation, then investigate that registrar. If you find out, hey, they haven't done that, then apply the sanctions that you have available under the RAA. Otherwise, if you find out they have been doing it but the tools that they have been using were not up to scratch, then work with them to inform them that their tools are not sufficient and they need to do more. So there's all kinds of steps of actions and sanctions that ICANN can be taking under the current RAA by working with the registrar, but [inaudible] have to find out if there is a problem with their verification and validation routines. And that can be done by studying the incoming compliance or ARS reports.

ALAN GREENBERG:　　　　So the sanctions one, I think, either should be removed or we should make it clear we're talking about sanctions that are on the books. Any further on this one? Alice.

ALICE JANSEN:　　　　Alright. So the next one pertains to CM.1. So ICANN Org also wishes to flag that the WHOIS accuracy program specification of the 2013 RAA states that if registrar does not receive [inaudible] response on the registered name holder, the registrar shall either verify the applicable contact information manually or suspend the registration until such time as registrars verify the applicable contact information.

ALAN GREENBERG:    Okay. CM1 is the one saying when a domain is suspended for accuracy reasons, we should flag it as such, and it shouldn't be allowed to be reactivated unless the problem is corrected. That requires new contractual terms. So we understand that the current [terms] do not support this, and we are suggesting that we need new terms. So I'm not quite sure – I think we'd agree with it that we understand what the current rules say, but we're saying we want things to be treated differently. So maybe they missed that part of it. Susan or Volker.

SUSAN KAWAGUCHI:    It's really what we [inaudible] go back and look at the language is that once they have done that, either reach out to the registrant or validated the information independently and then decided that the domain name was either suspended or put it in a new status, they could put it in for deletion even, that there was some sort of notation there because oftentimes, other people's information is included in a registration and it is suspended [inaudible] why that registrant has a suspended domain name. And this comes from my personal experience with eBay companies and Facebook companies, but also, I saw it with enforcement targets for individuals, some grandmother in San Diego for example.

So it just seems strange – and of course, now [inaudible] GDPR [inaudible] implemented the way it is right now, continues to be, then this problem may become moot, because there's just no – you won't be able to see it. But it seems very strange for a domain registration to continue to exist for years with false information, with no status.

Now, some of the registrars do a very good job of putting some sort of status in either as nameservers or repossessed the registrant or something, but that is not [inaudible] – there's no consistency in that, and I would say most registrars don't do that. The good ones do.


ALAN GREENBERG:     I would suggest we not belabor this one. This recommendation was supported by registrars and registries. Presumably, it can be addressed by mutual agreement without having to go to great lengths. But yes, we do acknowledge the current policy does not support this. That was the whole gist of the recommendation.


ALICE JANSEN:     Thank you. CM.3, so here, we notice that the report refers to global south in a number of paragraphs, but we wanted to highlight that there's no agreement within the stakeholders of what the global south is representative of, and instead, we would encourage the review team to use the GAC term, which is underserved regions, as there are some conflicting views on global south [inaudible].


ALAN GREENBERG:     Noted.


ALICE JANSEN:     Thank you.

ALAN GREENBERG:         For the record, did you say undeserved regions?


VOLKER GREIMANN:        I might have.


ALAN GREENBERG:         It is on the record, but we don't know who said it because he didn't identify himself. Let's keep going.


ALICE JANSEN:           Thank you. If we can move on to the next one. So here, [inaudible] CM1, how will the review team expect a determination of the best path forward to be made? I think you had two options, the negotiation or the PDP. [inaudible]


ALAN GREENBERG:         Chris isn't here. Chris should be insulted by this. We're saying the board should take action A or action B as it deems appropriate. I think [inaudible] capable of doing it, and given that the registrars and registries have supported it, I would presume a negotiation path, even though it's not the board negotiating, as we indicated here, would be the likely one to have to implement – a PDP to implement this, I would think, would be somewhat overkill if everyone is supporting it. This may be the archetypal class of change that everyone supports, we just have to go through process. Volker, please go ahead.

VOLKER GREIMANN: Correct me if in wrong, [inaudible] just yesterday discussed that all these recommendations that instruct the board to do anything, would remove the actual courses of action that we have suggested, leave it to the board to decide how to best implement that.

ALAN GREENBERG: We talked about that. We didn't actually decide that. But regardless, it will not say the board should do it. And in fact, if we can come up with wording that – there may be a third option that we're not considering ,and we should allow that to happen organically. So we probably will change the recommendation in the way Volker said, with a footnote somewhere – not a footnote, a comment somewhere saying options the board might have in any given case, just in case the board members are all brand new and have never done this before.

After we kick the board out, that may be the case. That was a joke.

ALICE JANSEN: So I don't know what [inaudible] just a reminder that the board cannot interfere with policy processes, so I think this is something we should consider as well. The high level might be formulate a recommendation and throwing it out there.

ALAN GREENBERG: And I believe the wording we had not was in acknowledgement of the board does not generally intend to set policy, although we've heard comments otherwise that it may well choose to in certain circumstances. But we're not going to instruct it to. But therefore,

[inaudible] for means under its control to effect that change. And I believe the only two common ones are they can initiate negotiations, and if everyone agrees, we have an amendment to the contract. If that is not possible, then a PDP route is a possible way to attempt to make that change. And that's all we're saying here.

ALICE JANSEN:          Thanks, Alan. So on CM.3, there are two questions there. The first one is, what does [regions] refer to? I.e., is it a registered domain name holder, a registrar record or reporter? And then the second question is, how is it anticipated that the review of registration data for a sample of names will yield insight into awareness of reporting tools in each of the regions?

ALAN GREENBERG:      I believe we are deleting this recommendation in any case. And we are moving the concept to the [inaudible]. The questions probably still stand. Can we put the questions back up? Sorry.

NEGAR FARZINNIA:      I can read them for you, since we can't put them side by side. The questions are, what does [regions] refer to? Is it registered domain name holders, registrar record, or reporter? And the second question is, how is it anticipated hat the review of registration data for a sample of names will yield insight into awareness of reporting tools in each of the regions?

ALAN GREENBERG:      Okay. Well, regions, I think, is relatively clear, because if you look at the recommendation we have, we said review the RDS records of gTLD domains sampled by the ARS for each region. So we're talking about the records associated with the region, the only region indication in any record is the country. Okay, so we're saying the domain is possibly – owned isn't the proper word, whatever the proper word is – by someone from that region. And we are saying, look to see if there are patterns, and then using whatever mechanisms might be available, try to understand why we are having certain problems. And Susan might be able to elaborate. I'm not quite sure I know the mechanisms that could be used.

SUSAN KAWAGUCHI:    So what we were trying to get at here was the ARS report is done by region. The reporting is – so that it's broken out by regions by Compliance in the report, and we think that Compliance should look at that, each of those regions that have a low number of reports of inaccurate data to see if there's something else going on. I'm just looking at the reporting tool or other critical factors. Yeah. So it doe relate to where the registrant says they are, but really, the intent of this – but like I think – did you just say we're moving this one?

ALAN GREENBERG:      We're moving it to outreach, but the intent, but my recollection is that what we were saying was the number of inaccuracy reports is disproportionally low for domains in those regions compared to what ARS is finding as inaccurate. So the question is, do people just not care,

or do they not know there's a mechanism that you could do to fix it, or what? Because the concern is that a lack of knowledge is implying that inaccuracies are not caught. That was the gist of it.

NEGAR FARZINNIA:    Yeah. Thank you. We will take a note back to say regions as defined in ARS so that it's clear where the data is stemming from.

ALICE JANSEN:    So we're switching to slide 14. Thank you, Jean-Baptiste. CM.5, so there's a list of questions here. Frist question is, what would be the ambition timeline? [Form, for example initiate a PDP,] and topic for potential PDP – sorry, what would be the topic of the potential PDP be expected to address? And could the review team clarify what a risk-based approach refers to and what new RDS policies is the review team referring to, and how would the GNSO be expected to incorporate these requirements [inaudible] tracking, reporting and enforcement in all the new RDS policies?

ALAN GREENBERG:    I will address the first one. We weren't talking about initiating a PDP. We were saying when PDPs are initiated, that certain things should be taken into account.

NEGAR FARZINNIA:    I'm happy to read the recommendation out.

**EN**

ALAN GREENBERG:          Fine.

NEGAR FARZINNIA:         The ICANN board should recommend the GNSO adopt a risk-based approach to incorporating requirements for measurement, auditing, tracking, reporting and enforcement in all new RDS policies.

ALAN GREENBERG:          So I don't understand where the first comment comes from. And I'm going to turn the other ones over to Stephanie. I did ask this question yesterday and she said she presumes that GNSO knows what this means. But apparently not everyone does.

STEPHANIE PERRIN:        A risk-based approach simply means that you do a risk assessment before you take an action to determine whether it's really necessary. And it's a pretty well-known term. So basically, it's just don't come up with a new metric, don't come up with a new procedure unless you've done a risk assessment that shows that you have a risk that you are attempting to mitigate here. So that's what it means.

And how would the GNSO be expected to incorporate these requirements for measurement, auditing, tracking, reporting and enforcement? Do you want me to respond to that? The measurement, auditing, tracking, reporting and enforcement, those are split

responsibilities. Some are going to be included in policy, right? Which the GNSO would be developing, right? Through PDP processes.

Others would be outside the picket fence, as it were, in ICANN Compliance land, and I was under the impression that we had also told ICANN to develop a risk-based approach, not just the GNSO. I certainly think that ICANN is the one that needs to take a risk-based approach more than the GNSO, because the GNSO is already focused on what has to be done, because our plate is rather full.

So I guess that's directed largely at Compliance, don't continue to measure widgets that don't need to be measured and don't audit where you need to, etc. This is particularly important in the light of the new requirements that ICANN has yet to face when it assumes its responsibilities as a controller or co-controller, or even processor depending on how it falls on this after the EPDP, because there's a lot of work that needs to be done. So evidently, if there's a lot of new work, a risk-based approach to dropping the [inaudible] has to be addressed.

ALAN GREENBERG:     I think that part is somewhat out of our scope. Stephanie, I have a question for you. We end up having conflicts when you say, "Let's not measure things unless we need to measure them," and later on, you find out that we now know why we need to measure them but we didn't measure them. And when you look at the concept of making a risk-based decision on whether to address something or not, there are certainly cases that we have where there is anecdotal evidence to demonstrate a problem. The only hard numbers that could exist would

come from registrars or registries, and they're not obliged to provide them. How do you address that kind of situation? Just ignore it because we don't have the numbers?

STEPHANIE PERRIN:     One of the routine procedures in taking a risk-based approach to any kind of administrative or regulatory action is to hold a risk workshop. I've yet to see ICANN hold a risk workshop. Maybe they do behind closed doors. I have seen their annual risk collection, and I felt it was fairly pedestrian. I didn't think it's at the level that it needs to be for an organization that has as much risk as ICANN does, but that's just me. So you hold a workshop. Maybe it's a day, maybe it's two days. On really big projects, it could be even longer. You bring all the relevant players who might have something to say into the room, reps of their organizations, and they tell you. So the folks that you are mentioning that have anecdotal evidence that they would like to bring forward, meet, and then the folks who don't feel that this particular action is required also show up and argue against it. You have Legal there, you have Compliance there, and you figure out whether this thing actually needs to be done. That's kind of routine in government, and I would suggest that ICANN's operations are remarkably similar to the government operations that I'm familiar with.

ALAN GREENBERG:     I guess I question whether we could really have that happen.

STEPHANIE PERRIN: 1Well, we don't know until we try, but it's high time we tried. [inaudible] But there are people who are intensely frustrated – as I must say I am, although I'm not intensely frustrated, I'm mildly frustrated – by the lack of this kind of procedure. This isn't rocket science. I didn't dream this up. There's a whole cadre of management on this, and I think it's high time ICANN did it.

ALAN GREENBERG: Do you have answers you're comfortable with, or not?

NEGAR FARZINNIA: I believe so, Alan. We'll go back with the comments received here today, and if the team has any follow-up questions, we'll communicate it with you guys. I think we have enough to go on for now.

ALAN GREENBERG: Thank you. Next.

ALICE JANSEN: The next one was –

STEPHANIE PERRIN: One more thing. I would be happy to bring in all my public documents on how a risk-based approach is addressed in the government of Canada if that would help. This has all been vetted at the OECD, it's a well-known OECD framework, [inaudible] if that helps.

ALICE JANSEN: Thank you. So the last one was the one we addressed in the first –

ALAN GREENBERG: Please.

ALICE JANSEN: Sorry. The last one was the one we addressed earlier regarding the six-month [inaudible] – since Cathrin's here, maybe we can ask her about this one.

ALAN GREENBERG: The implication was that there are some statements in the law enforcement [recommendations] that say ICANN should do something within six months, and the question was, is that factoring in the reality that it will take six months for ICANN board to accept and then probably six months to develop an implementation plan. I don't recall the reference at all, but maybe you do.

CATHRIN BAUER-BULST: Good morning, everyone. We can certainly take another look, and if this is for late 2020, then so be it. We just tried to make the [inaudible] in the smart objectives to meet that, and if we need to clarify when the six months start running – the idea was just to basically set a timeline when this would happen. Of course, [inaudible] our discussion yesterday, in my personal view, it would be ideal if this were to happen as early as

possible – and I don't know whether it would really take a year to consider whether to rerun the survey where questions have already been developed, but if this is the case and then you would need another six months to reorganize the survey, then I guess that's the timeline we'd be looking at. The idea in any case would be to launch a sort of regular process. I think it would be most beneficial now for the ongoing process on policy development, however, we have run the survey a first time, so we are at least delivering some input already for that process.

ALAN GREENBERG:    Cathrin, was your image of this – what did regular mean? Annual? Semi-annual?

CATHRIN BAUER-BULST:    No, I wasn't thinking of anything like that frequency, and I didn't set specify [inaudible] on purpose because it's very hard to judge what would be appropriate. But given that the policy changes at a glacial pace, it certainly wouldn't be necessary to do it more than every couple of years. I was thinking more along the same cycle as perhaps our reviews or something. Certainly not an annual exercise, unless we start changing the policy on an annual basis. The idea is that this would feed into evidence-based policymaking, so if we're not working on any policy, then you might want to do it [inaudible] actually have the evidence that they need to shapre the policy in accordance with the needs.

ALAN GREENBERG:          In this case, however, another aspect of surveys are they tell you what the impact has been of policy you have already made or just made. and since we are in the process of significant change, one would think we would want to be monitoring on a more regular basis for the next little while what the – no, Stephine says we don't want it monitoring what the impact is.

STEPHANIE PERRIN:        I agree with Cathrin, and yes, we've got new policy coming, but it's going to be a couple of years until it's implemented. So I think if we get another survey done prior to the next review, we'll be doing well. That would be what I would recommend. Try and do it in the next couple of years.

ALAN GREENBERG:          Cathrin?

CATHRIN BAUER-BULST:   Yes. Not to harp on this whole government angle, but as Stephanie was saying, there's maybe some things you can extrapolate. What we do in policy development in the EU is that we first do an impact assessment of what we think would happen if we develop a certain policy, and then once the policy has been developed and agreed ,we wait a couple of years, because it usually [inaudible] until you have statistically significant and relevant results that you can actually build a survey and a study on. So usually, we spend between three and five years, but that's for actual legislation. I think also with the WHOIS, it would be useful to

do one as soon as implementation starts, which I understand will be another two years from today given that it takes one year for ICANN to do the turnaround plan, and then [inaudible] start even on the processes. So that would certainly be a good point in time, because at that point, hopefully, we'd be looking at something relatively fresh and [inaudible] three years down the road what things look like by then. That could be a [inaudible] that might make sense.

Of course, again, I would love to do this very soon so that there's more evidence for the EPDP.

ALAN GREENBERG:          Stephanie?

STEPHANIE PERRIN:          Yeah, and I totally agree with what Cathrin just said. In my view, we should be doing a regulatory impact assessment whenever we bring these new policy changes out so that we can measure the impact and the economics of the situation after we've done it. I give you privacy proxy for instance as an example where this may have unintended consequences.

I just wanted to say that the NCSG comments about extending the survey to the private sector cybercrime fighters, that s kind of a separate issue. We object to us paying for any further work – we figure that they ought to be doing it – but [inaudible] right now to get the impact beyond law enforcement on the cybercrime – let's call them cooperators – that would be not something that should wait for two

years. It should be done as soon as possible so that we can get the same timeframe for analysis.


ALAN GREENBERG:          Okay. I'm going to ask [inaudible] question, but go ahead, Cathrin.


CATHRIN BAUER-BULST:     Thank you, Alan. Given that ICANN [inaudible] one thing that we should consider is whether as the review team we recommend this now to the EPDP informally and say, "If you wanted to pick this up, we have the survey questions at the ready. You may need to reevaluate, but what you could consider is this would inform your policymaking process to relaunch this now as the EPDP, because of course, you're in a running process and it's your decision whether to do this or not. But I would highly recommend it." And then that would save us this time lag of one and a half years.


ALAN GREENBERG:          Stephanie.


STEPHANIE PERRIN:        Yeah, and I would just add to that by saying in my view, the questions have to be reframed somewhat to fit the private sector, because these are aimed at folks who have delegated legal authority, and I think we should coerce them into paying for that and then come back and verify it.

ALAN GREENBERG:          Soon as Mexico pays for the wall.


STEPHANIE PERRIN:        No, they have a vested interest in doing this, I just don't think we should spend – because let's face it, the EPDP is strapped. We can't afford [inaudible]


ALAN GREENBERG:          [inaudible] different recommendation here, please. We're talking about LE1, which is true law enforcement. I think what I'm hearing is on a regular basis, perhaps a year before a review team convenes would be a good time to do it, but given the changes we're looking at right now and given that we believe ICANN should be prepared to start implementing about a year from now – little over a year from now – that we would recommend regular means [inaudible] rerun of the current law enforcement, LE1 survey or a variation thereof should be initiated soon after the implementation begins, and then the kind of regular basis we're talking about, once every several years. Stephanie?


STEPHANIE PERRIN:        If you were taking a risk-based approach, you would also review what kind of facts you need for the policy that you were about to review and recommend, because we are recommending policy changes. You are furrowing your brow, Alan. What part don't you get?

**EN**

ALAN GREENBERG: I thought at this point if we're going to run something a year from now, we are evaluating the impact of a policy we have just made.

STEPHANIE PERRIN: I thought you were talking about running something a year before the next review to get fresh data for that review. And a risk-based approach would – you would have a formal risk process to determine what data you need by the next [inaudible] which would dictate whatever polling you're going to do.

ALAN GREENBERG: I have Cathrin in the queue, but just for clarification of what I said, I said I believe what we're saying is we should plan to do this, that is this survey or a revision of this survey, as deemed appropriate, before the next review, but we should also redo this survey or a slight modification of it soon after the implementation of our recommendations begin, i.e. just [after the EPDP] proposals go into place. I think that's what I was trying to say. Cathrin.

CATHRIN BAUER-BULST: I was actually just waving my hand around [inaudible] I'm happy to take the floor to say that my takeaway from this is that we would review this recommendation and specify what we mean by regular, by perhaps clarifying [inaudible] itself and also adding a little rationale to explain the two reasons that we see for conducting such surveys and studies, which are, A, to do [inaudible] impact assessment of projected new

policies or prepare a review team, or B, to evaluate new policies once they are in place. Does that meet with everyone's approval?

ALAN GREENBERG: And therefore, the specifies here are – no, prior to the next review with sufficient time to draft it properly and get the results, but [because of the] exceptional circumstances we're in today, we would expect one to be done soon after this review's implementation begins, based of course on the timing of the EPDP.

CATHRIN BAUER-BULST: And as mentioned, consider whether we can informally hand this over to EPDP and suggest that they rerun this pretty much now for their own purposes of gathering enough evidence.

ALAN GREENBERG: I'm willing to [inaudible] not sure how receptive they'll be, but – can we have the conversations public, please? No? Okay. Who are we proposing bring this to the EPDP? That was a serious question, however. Why bother proposing it if that's the methodology we're going to use for implementation?

STEPHANIE PERRIN: I can answer that question. I think you underestimate Kavouss. I think he actually might credibly explain this.

| | |
|---|---|
| VOLKER GREIMANN: | At length, an hour or two. |
| ALAN GREENBERG: | Microphone. |
| ERIKA MANN: | Sorry. |
| STEPHANIE PERRIN: | It's the questions, and we need to get those right. |
| CATHRIN BAUER-BULST: | Right. I don't think that takes that much more work, but maybe I underestimate, because there's also – the private guys already have done their own survey, so they have some questions that we can consider. The M3AAWG did a survey as well, and I'm happy to take this up also with the GAC representatives of all three of them on the EPDP [inaudible] they would support this in addition to Stephanie, and then let's see what the rest of the people say. |
| ALAN GREENBERG: | And I'm happy as chair to bring it, but it can't be purely me, because I may be there as chair, but I'm also only there as an ALAC representative. Okay, we can work offline on this. We do need to move on. How are we doing on this? |

ALICE JANSEN:              That's all we have, actually. So, thank you very much for listening and providing feedback on these, and [inaudible] the ICANN SMEs remain available if you have any follow-up questions or requests for clarification. Thank you.

ALAN GREENBERG:           We're a lab past our break –

CARLTON SAMUELS:          Let's cancel it then.

ALAN GREENBERG:           Cancel it? Does anyone need a break, or we cancel and keep going? Keep going. Alright. If anyone desperately needs coffee, go and get it. What are the next items? I've lost track of what our agenda is right now.

JEAN-BAPTISTE DEROULEZ:    I just go back to the beginning. So if I recall correctly, you wanted today to go through the list of action items and look at what updates are needed. I recall as well that you wanted to look through all the recommendations [inaudible] summary and have a look at the structure of the report.

ALAN GREENBERG:           I think the executive summary and start of the report are next, I believe.

**EN**

ALICE JANSEN:                  So we're not going to review the action items listed at 11:15?

ALAN GREENBERG:                Let's do that first.

JEAN-BAPTISTE DEROULEZ:        Alright. So from those we had listed, from the executive summary, we had two other sections. On the problems of the policy development process, regarding the single RDS WHOIS, add this into the executive summary. We have this action item also under the single WHOIS policy section. As a reminder, you had decided to put it in the executive summary because people might just not read the single WHOIS policy sections considering there are not recommendations in there.

                               Second one is the review team to evaluate the recommendation numbering and add a potential explanation in the executive summary. Then on the history of WHOIS on ICANN's website –

ALAN GREENBERG:                Excuse me, that would not just be in the executive summary, executive summary and the [body of the] report.

JEAN-BAPTISTE DEROULEZ:        Yeah. On the [inaudible] WHOIS on ICANN's website, Erika will provide Jackie with the right content and content references link so the introduction section can be properly updated. Under recommendation 1, strategic priority, one decision reached was to do a rewording,

affirmation of strategic priority and the implementation note [further reference to ] stakeholders is there. Work should be interactive and board should not act unilaterally.

The next action item is the following. Since the formal board working group was dissolved, the recommendation should be reformatted –

ALAN GREENBERG: I'm working on the assumption that when we're talking about reworking things, either Jackie feels comfortable or we have to identify who's going to work with her on the item.

JEAN-BAPTISTE DEROULEZ: Yes.

ALAN GREENBERG: So let's start at the decision reached on this one and factor that in as we go forward.

JEAN-BAPTISTE DEROULEZ:

NEGAR FARZINNIA: So, Jackie, the question is on the rewording of this recommendation, do you feel like you have the information needed right now to take a pass at drafting it so that the review team can just review and provide input,

or do you need someone to help provide language to you? Or some guidance.

JACKIE TREIBER: Unless I'm explicitly called to action on an item, it would be helpful for a team member to address the issue themselves or work with me to draft the language for that.

ALAN GREENBERG: Then I'd like to identify that team member at this point so we don't leave this room without knowing who it is you can work with. I'm looking for a volunteer who understands what that means. Cathrin? [inaudible] identified. Thank you.

CATHRIN BAUER-BULST: If I may suggest maybe we can od as a default that the person who was leading the subgroup for the relevant item is the one in charge of doing the update, because they're usually the one who drafted the next.

ALAN GREENBERG: Noted.

JEAN-BAPTISTE DEROULEZ: Thank you. Just a last comment regarding comments from NCSG regarding on recommendation 1.1, 1.2 and 3.1 need to be updated to neutral. This has been done and this was assigned to us. Also, I noted from the previous discussion an action item to keep in mind that the

board has six months within receipt of the final report to consider recommendations. Implementation details should be updated for recommendation 1.1, 1.2, 1.3.

ALAN GREENBERG: Yeah, we don't need to [inaudible] it's a given.

JEAN-BAPTISTE DEROULEZ: Alright. Let me go to the next one. Under single WHOIS policy, so that was the same one that was mentioned in the executive summary, Jackie to work with you, Alan.

ALAN GREENBERG: Single WHOIS policy is –

JEAN-BAPTISTE DEROULEZ: I think it was yesterday that you agreed you would work with Jackie on that.

ALAN GREENBERG: Okay. Yeah, that's executive summary, so that's fine.

JEAN-BAPTISTE DEROULEZ: Yeah. Next one is under outreach. Following the comment from the Domain Name Rights Coalition, Alan, you mentioned that you would update the language. This was a comment on the section, not on the recommendation itself. And then again, we changed the public

comment assessment of NCSG. You will work with [inaudible] wording the recommendation to clearly articulate a need for outreach before and after RDS changes are finalized, and this we have mentioned, [inaudible] that the review team does not have any input on it in budget. Under compliance –

ALAN GREENBERG:          Sorry, wasn't an implementation note, that was a response to the –

JEAN-BAPTISTE DEROULEZ:  Alright. Under compliance, clarify that ICANN will not go on factfinding missions but use information they currently have on hand, and clarify that Compliance enforces registrars to enforce data accuracy for registrants. And for the first recommendation, Volker will provide [inaudible] recommendation 4.1 based on RySG and NCSG comments, and on recommendation 4.2, Volker and Alan to work on rewording recommendation 4.2 and add some metrics for measurability and success of implementation.

Under data accuracy, Lili and Cathrin to rewrite recommendation, and [inaudible] what does that concern. [I'll insert a bookmark] that if indeed it is conceivable that the outcome of the EPDP, work that Compliance does today becomes more complex than it currently is. Compliance must be properly resourced to do its job. The wording should be discussed. And we'll double check the recommendation numbering to ensure the comment was in response to recommendation 5.9 and adjust as needed.

ALAN GREENBERG:          Sorry, can we go back to 4.2 for a moment? That was the one where there was as mention in ICANN's comments of we can't [impose sanctions.].Do we want to delete the reference to sanctions should be applied if significant deficiencies are enforced, or clarify to say existing sanctions on the books in the policy should be applied? Which essentially says Compliance should actually do their job. At this point, I'm in favor of making a comment in the document – referring to sanctions in the document but not in the recommendation. Is that agreeable? Lili and Susan?

SUSAN KAWAGUCHI:        Yeah, I'm fine with that.

LILI SUN:                Yeah.

VOLKER GREIMANN:         Yeah.

ALAN GREENBERG:          Okay. So we'll delete the reference to sanctions in the recommendation but mention it in the text.

JEAN-BAPTISTE DEROULEZ: In response to the [RrSG] comment on recommendation 5.1, Cathrin to review this section of the report and consider rewording as needed. Cathrin to provide Jackie with the correct references and insert references in the public comment as well. On recommendation 10.1, recommendation stands but Volker needs to make sure the wording is clear. On recommendation 12.1, review team to review the section and recommendation and decide if changes are needed. Review team needs to evaluate recommendation numbering, but [inaudible].

Recommendation 15.1, Stephanie to work with Jackie to modify the recommendation language, and add a comment that ICANN needs to focus more on ensuring the intent of recommendations implemented, and add something focusing – consider to what extent implementation is meeting the intent and [inaudible] effective.

On recommendation LE.1, MSSI to estimate the number of hours spent on the law enforcement survey in response to the request for estimated costs associated with conducting the survey. And in response to the public comments, Cathrin to work with Jackie to add clarifying text, update rationale to reflect difference between the use of surveys and studies.

On the second recommendation on law enforcement needs, in response to the NCSG comment, Cathrin to add a clause factoring cost-benefit analysis and also reword recommendation to define what [inaudible]. So there was a new suggested text. Sorry. The ICANN board should consider extending and should consider to extend comparable surveys and/or studies. So that's what [appears in bold] in recommendation [inaudible] law enforcement on a regular basis. The other action item is

in response to the Domain Names Rights Coalition comments. Cathrin to provide context to Jackie that the review team is not proposing noncompliance with law but proposing an assessment of needs.

ALAN GREENBERG:                Cathrin.

CATHRIN BAUER-BULST:          Yeah. Thank you, Alan. Just to say the new suggested text doesn't make sense to me, because it says "Should consider extending and should consider to extent comparable surveys." I'm not sure what is actually added or – other than saying it twice.

JEAN-BAPTISTE DEROULEZ:      If I recall correctly, that's something Volker, I think, had suggested. No?

ALAN GREENBERG:                It may make more sense in German.

VOLKER GREIMANN:              I think we tried to [inaudible] yesterday because that would indicate we used the same study for those as well, so rather go for – consider to conduct comparable surveys, because that would indicate that this would be a separate survey with separate questions, but they're targeted.

CATHRIN BAUER-BULST: I think the text should read, "The ICANN board should consider conducting comparable surveys and/or studies," and then the rest of the phrase. Thank you.

JEAN-BAPTISTE DEROULEZ: Thank you. I updated that. Alright. On consumer trust, there was an action item for you, Alan and Erika to update this [inaudible].

ALAN GREENBERG: Yeah, and the intent is to divide the section logically into a section on impact on registrants who are a subset of users and on individual users interpedently. Our target is to have that done well before Christmas.

UNIDENTIFIED FEMALE: [Christmas Eve.]

ALAN GREENBERG: That's your target. My target is as bit earlier than that. Please go ahead.

JEAN-BAPTISTE DEROULEZ: Next one is under safeguarding registrant data. Alan [inaudible] recommendation, and there was an agreement to add, "ICANN board should consider whether [inaudible] notifications of breaches should be publicly disclosed."

Moving on to the ICANN Contractual Compliance section, structures and processes section. There, there was – o the first recommendation an

action item for Alan to reword this recommendation so that it does not say the board should negotiate, because the goal is to ensure the recommendation is not dictating a PDP but suggesting a change somehow. You want to say something, Alan?

ALAN GREENBERG: Just that I believe that similar wording's used in a number of recommendations, and whatever we decide on will be used in all of them.

JEAN-BAPTISTE DEROULEZ: Under the second recommendation, Alan and Volker to add more details to this recommendation to clarify the registrant fields being addressed in the recommendation. Additionally, the whole recommendation should be [inaudible] convey the intent. And there, there was an update. Based on the updated recommendation and rationale language, Volker, that you provided yesterday. Susan will take the pen and update the relevant sections of the report accordingly. Alright.

ALAN GREENBERG: And just to note, I yesterday registered a minor level of discomfort with the exact wording, and I may propose some slightly different wording to make it clear that we are not just talking about new registrations [inaudible]. To be clear, the recommendation, I believe, is reasonable right now, but it could be construed other ways. If we could remove

that ambiguity, that would be, I think, better, but if not, we'll leave it as is.


JEAN-BAPTISTE DEROULEZ:     Thank you, Alan. And finally, the last action item was for [inaudible] in an introduction to the extent that the deliberation impact areas in your review. So recommendation 7.3, as you mentioned earlier this morning, this recommendation will be deleted and will be added as a more targeted outreach in the relevant recommendation. 7.4, Alan will write to ICANN Org Compliance and [inaudible] should be added relevant pages. If successful, recommendation will be deleted.


ALAN GREENBERG:     I believe we should assume we will delete it and we will come to some conclusion. I'm willing to accept the fact that if we don't come to some conclusion, there already is reference to the bulk tools there. if we can't make it clearer, I'm not going to make a capital case out of it. Susan agrees to that. We'll certainly attempt to get it. and the wording I will use says "We're willing to remove the recommendation if –" but I think we need to make a formal decision sooner than that. So I'm willing to informally say we will remove it. If things come to an impasse and we need to get agreement of the group to put it back in at the last moment, we will.


JEAN-BAPTISTE DEROULEZ:     Thank you. And on the ICANN [inaudible] volunteer to amend the recommendation to incorporate the words "Safeguarding the registrant

data" and provide clarification that the suggestion is meant to postpone the topic to future reviews.

ALAN GREENBERG:     And I'm just – informally, Carlton, I'm happy to work with you on that. So if you draft something and send it to me, we'll argue it and present it to the group. Love it. Dmitry?

DMITRY BELYAVSKY:   Return to action items related to recommendation 12. I'm sorry. If I'm not mistaken, the recommendation to evaluate numbering is related not only to recommendation 12 but to all the recommendation.

ALAN GREENBERG:     I think we decided that we would keep this numbering but explain it, that if there was a group of recommendations, we are grouping nay follow-on ones under –

DMITRY BELYAVSKY:   Yeah, but I think it should be moved from the recommendation 12 to somewhere [inaudible].

ALAN GREENBERG:     Yeah, I think there are two different sentences there. the first sentence refers to this one.

DMITRY BELYAVSKY:          Yeah.


ALAN GREENBERG:            [The second – it'll be put up front, yes, correctly.]


JEAN-BAPTISTE DEROULEZ:    Thank you, Alan. So those were the action items that we identified. What will be important is to set deadlines for this. So as mentioned, the timeline is quite tight, so –


ALAN GREENBERG:            I'd like to formally object to the number that have my name on them.


JEAN-BAPTISTE DEROULEZ:    Denied.


ALAN GREENBERG:            Thank you. I guess my preference is – and it may not be possible, because at this point – how much time do we -where are we? We essentially have next week before Christmas break. I would like to say that all substantive changes be done by the end of next week so that after the break, we can come back and start doing cleanup and revision and stuff like that. I suspect given that we've taken people away from work for a week and people have [deadlines] of their own that are going to have to be met, we might not make that. But I think that our target is to try to get any of the commitments done, any of the action items referred to here done to a completion or at least a level that we

understand what is still missing before the Christmas break. Is there anyone who feels that's completely unimplementable on their part?

The work that Erika and I have to do, which is more substantive, may well [inaudible] that category. We're certainly going to try to do it before – Erika assures me I'll have enough time to do my part. Thank you. Okay. I'll certainly commit to give you some notes before the end of the weekend on what I think the structure should be. If you agree, then you can take the first cut. If not, then we'll see.

STEPHANIE PERRIN:    I have very little work to do [inaudible] by design, a cunning one, in my view. But if you expect us to review things before Christmas, I just want to point out that the EPDP is doubling down on the pile of work, which I am unfortunately involved in, and the GNSO council has a meeting coming up, and all of us who are on the GNSO have attended meetings – yeah, our policy meeting is on the 20th, and there's an EPDP meeting on the 20th too.

ALAN GREENBERG:    And the [inaudible] Friday.

STEPHANIE PERRIN:    Yes, and some of us haven't finished our comments yet. Or have we – yeah.

ALAN GREENBERG:          AS I said, this is our target. We may not make it. We should try.

STEPHANIE PERRIN:        Yeah. We're not under the same kind of pressure that everybody else is, so I think we should cut ourselves some slack here.

ALAN GREENBERG:          I think that's what I said though, but we should really try to make it. Cathrin.

CATHRIN BAUER-BULST:     Yes. I want to disagree. I actually think there's very little do be done to finish this thing, and I would say we're probably not going to use all the time today for our meeting, so why don't we reserve, I don't know, an hour before lunch or something, everybody double down, do their stuff, and then we're done. Literally, it doesn't take much more for most of the sections [inaudible] there's something that still needs to be done. We drag this out into January again, we're just going to face increasing delays. [inaudible] should get this done this week.

ALAN GREENBERG:          I'd like to formally request that every [inaudible] says Alan, put Cathrin in it, and then I formally completely agree with you. Can we have that list as you have been updating it distributed to the group so each of us know what we're supposed to be doing?

JEAN-BAPTISTE DEROULEZ:    We'll do so.

ALAN GREENBERG:    I support what Cathrin is saying. I'm just noting that I believe it may not be fully possible. But we really need to get the bulk of it done. And I would ask everyone – we'll try to limit the number of e-mails we sent out that are gratuitous, but please, if we get e-mails asking for input, please try to focus on them. And I am probably the worst offender of ignoring e-mails if I don't have time to properly focus, but give it a go. I think now we're on to strategic summary, unless we want to take a brief break.

JEAN-BAPTISTE DEROULEZ:    As you prefer, Alan.

ALAN GREENBERG:    Anyone need a break right now? No? Cool. Jackie, it's all yours.

JEAN-BAPTISTE DEROULEZ:    Let me put the slides.

JACKIE TREIBER:    Here are a few suggested changes for the executive summary. I thought perhaps we could change .12, the background to subject background. This will differentiate from the review background included later separate from the executive summary. I'm only noting this because during our last leadership call, there was just a momentary confusion,

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and I wonder if maybe labeling this subject background might alleviate any confusion a reader might have, or –

ALAN GREENBERG:     I deem changes like that to be within your domain. If anyone really objects to them afterwards, we'll react.

JACKIE TREIBER:     Perfect. Moving on, I would consider using the methodology section as a place to explain the reasoning behind our naming, the R1, R1.2, etc. I think that's probably a good spot for it. Next up, I'd like to mention –

ALAN GREENBERG:     Jackie, I don't think we need to belabor that. I think we simply have to mention it. It was complete silence that caused confusion, I think.

JACKIE TREIBER:     Noted. Moving on to the review conclusions, that first paragraph states that all recommendations were implanted, but the following paragraph notes that one recommendation was not implemented, so to me that seems like a contradiction. We should either say most of the recommendations were implemented, or find some way to reword that, because at face value, not all recommendations were implemented. Unless somebody has reasoning that I just don't understand at the moment.

ALAN GREENBERG:              Sorry, I'm having trouble with context. What is section [1.1.6?]


JEAN-BAPTISTE DEROULEZ:    If I can –


ALAN GREENBERG:              Pl.s


JEAN-BAPTISTE DEROULEZ:    I think this is under the executive summary itself, and that's the conclusion section of the executive summary.


ALAN GREENBERG:              Since we had at least one recommendation that wasn't implemented at all, I don't understand why I would have said that. And I wrote it, I admit it. So it sounds like that's just an error that needs to be corrected.


JACKIE TREIBER:              Perfect. Let's see here. So yesterday, we discussed shortening the WHOIS background section by using or referring to an ICANN history link using that as shorthand. I was wondering if we could maybe consider this option for the review background which occurs later on in the document [inaudible] As we've noted, the executive summary is a more portable portion of the review document, and I feel like as it stands, the history there is already brief. Those who are going to dive deeper into the report probably have a more nuanced understanding of WHOIS

history, so I think maybe we should explore that option for the background section later on in the document.

ALAN GREENBERG:     I've a little bit lost track of what the executive summary had. When it was originally written, it gave a pretty comprehensive history of WHOIS. It was cut down significantly, and I think what we're saying here is pretty much eliminate it with just a pointer.

JACKIE TREIBER:     Yeah. I guess what I'm trying to say is that if we are expecting maybe those who are new to the subject to read only the executive summary, we might want to actually leave extensive history intact, and then maybe explore with brevity the history of the WHOIS in the document later on in that analogous chapter.

ALAN GREENBERG:     I don't feel comfortable discussion it right now because I have to look at it again. How about we leave it to the two of us to come to a reasonable conclusion?

ERIKA MANN:     Yeah, I agree. I think in principle , I agree. I think if it is too short, it is for a first-time reader very difficult to understand. And even for historical reasons, I [inaudible] what everyone is doing, that even in ten years or five years, somebody can still understand the context, and many of the links may not be in existing then anymore. But nonetheless, we said

yesterday we would want to include the link to the WHOIS information inside this briefing, this particular part you are talking about. But keep in mind it's a little bit confusion, [inaudible] have to explain where even there, you have to explain [inaudible] information, because the link itself is a little bit [inaudible] confusing way. I can show it to you because Katrina and I, we investigated it yesterday, so we can explain to you what to do and what to write.

ALAN GREENBERG:             I believe it is normally good practice to put a brief history in the executive summary. So executive summaries are accessible and usable. I don't think we can have the luxury here of putting the full history here no matter how well-intentioned it is, so my inclination in the executive summary is to put a pointer to as much detail as we want, but now put a lot in. Because you're not going to do it justice by abbreviating it too much, I think, and someone will feel that their part was left out.

JACKIE TREIBER:             So just to confirm, we're thinking about adding a link to this text with some explanation that you will need to navigate a little bit. Is that correct?

ALAN GREENBERG:             Yeah. and a summary of the history saying this has been a convoluted, controversial thing for decades. And we're jumping into it here.

JACKIE TREIBER:     Okay. Next slide, please. So I made a comment here in regard to my editing style. You all have not seen my edits thus far, but I would really appreciate when you do lay your eyes on it if you could tell me whether my edits maintain the essence of the recommendation or if I diminish the quality somewhat.

I was mostly editing for passive voice and sort of run-on sentences, etc. So I don't believe that I diminished the essence of the recommendation, but you may think otherwise. So I'm just letting you know that. Let's see here. And then lastly, I just want to note that there is a sentence – I'm not sure where it's at exactly at the moment, but it states, "RDS WHOIS is a rather hot topics in ICANN. It has been controversial for over 15 years." And I note that while the statement is true, if it is written as the paragraph's thesis, what follows that thesis does not necessarily support it. So I would consider modifying the language to enhance the tension of WHOIS, of that history, or consider reworking that first sentence. Because really, after that, it's just really a description of what happened in order to get to this point we're at today, doesn't actually go on to say why WHOIS has been controversial. And I realize that we don't want to get into the epic history of WHOIS, but we should  at least support that sentence, or consider nixing it altogether.

ALAN GREENBERG:     I am the author of that sentence. I have no ego in it. Do what you think is necessary.

JACKIE TREIBER:     Okay. Anyone else? Good. Stephanie?

STEPHANIE PERRIN: It is my view that a lot of the records and a lot of the portals on WHOIS are very anodyne and disguise the fact that there has been bloody war [over WHOIS] for the last 20 years, I would say, not 15. So I would encourage you to express that – well put, Carlton. Well put indeed.

JACKIE TREIBER: and that should be the conclusion of my assessment so far. So, thank you.

ALAN GREENBERG: Do we need any more overall structure of the report? We did a brief review at the beginning. I don't think anything has changed since then. We have some people who weren't here. I can summarize as saying we're going to do our best to move things to appendices if there's not great harm in doing so to try and reduce the bulk of the actual report to something that will not scare people off. We are worried less about making sure the section on recommendations [inaudible] with background and history and conclusions, and make sure the whole section on any recommendation or subject stands on its own with minimal redundancy. We don't want people reading the same sentence twice two pages apart.

And I think that's really the overall summary. When we started this, I mentioned – and no one disagreed – that the whole report [inaudible] should be under 100 pages. It's not likely to be, but the report itself should, I hope, will be well under that. What's next? I would suggest at

this point that we take a break and try to get the changes that we're looking at in recommendations done so that we are closer to the final wording when we call for consensus.

We already agreed at the beginning of the meeting that changes to recommendations are not off the books once we have done this. We still can redo it and redo the consensus call if necessary, but perhaps taking an hour, we can minimize the number of such changes and take – we're siting past 11:15, lunch presumably was scheduled at 12:30, so let us break until 1:30, and if you are going outside, if you feel you have nothing to do here, please be back. And let's see if we can get some of the [inaudible] that have to be done so that we can do a clean consensus call. Agreeable?

JACKIE TREIBER:             Short break, convene back here –

ALAN GREENBERG:         Bio break or coffee or whatever you want for a few minutes. let's convene back here in small groups as necessary. And anyone who has any assigned work associated with recommendations as opposed to the surrounding text, let's try to get everything done before lunch. Carlton is trying to say something but doesn't want to actually say it. Carlton is saying he's already done his part. Thank you, Carlton. You can now do personal e-mail for an hour if you have nothing else on our charts. Still stay on ICANN salary for that hour. How about that?

STEPHANIE PERRIN:          Missed out on that, Cathrin.


ALAN GREENBERG:          Cathrin, we're all getting paid a lot for this, but you're not allowed to, remember. So you can't receive anything from ICANN. It's funny how your receiving nothing and my receiving a lot amount to the same thing. Recording should be stopped, I guess.


**[END OF TRANSCRIPTION]**