

**ICANN  
Transcription  
EPDP Team F2F Meeting  
Monday, 24 September 2018 at 17:30 UTC**

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Adobe Connect recording: <https://participate.icann.org/p855board6i/>

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David Plumb: We're going to use this sheet that we asked you to (unintelligible) time reading over this break. The way we're doing this, remember, is using this sheet to get to a place not of final language, but of good enough to go test it with the other sheet. Getting to a place of language that's good enough to then go run this for specific analysis purpose by purpose with the other sheet.

So I'm going to ask you a question now, pretty interesting, think about the purposes that are listed here. And let's just start for now with the ICANN purposes listed here, ICANN's reason for processing data. Before we jump to the next analysis, does anyone need to make some adjustments to any of these purposes here for ICANN specific purposes before we jump forward into that next section? Are there changes that are strong enough that we need to make an adjustment now, conversation, before we jump? Great, I'm seeing some things going up.

So what I'm going to ask you to do is to say the letter of the purpose based on that ICANN table here in less than 30 seconds about what your concern is, then we're going to circle back, right? So I'm seeing hands here, let's start right here.

Gina Bartlett: So the letter and name the reason. We're not going to go into a lengthy discussion, name the issue or concern.

David Plumb: Yes. Yes sure, always say your name, it's always helpful. Thank you.

Benedict Addis: Benedict Addis, SSAC. A, we cannot – ICANN cannot rely on legal basis. B, because that is contractual performance which is only for contracts to which the data subject is party. ICANN does not have the contract with the data subject, thank you. Should be F.

David Plumb: Right. Right, so there's a concern about the legal basis in Purpose A. Great. Other hands that went up. Let me look over here. Milton, please. Help me with the queue, anyone in staff can help me? Milton, please go ahead.

Milton Mueller: I'm just a bit – I want clarification about this, so I see things that are in brackets here, and usually the ones that are in brackets are one that I have a problem with but I'm not saying it shouldn't be here, or shouldn't be discussed. And then sometimes the Pursued By column has things in brackets which again I would want to take issue. So should we tell you now what – which ones we think shouldn't be there at all or is that a discussion that should be held off?

David Plumb: No, absolutely tell us the things you think should not be there at all, and Marika can explain the brackets and why they're bracketed.

Milton Mueller: Okay then so I think I'm in sync with all of the NCSG people when I say that we don't think either B should be there, B1 or B2; we certainly don't think G should be there as an ICANN purpose. And there's problems with H, I, and J

as well but those are clearly marked as third party interests. But H has registry and registrar, which we don't agree with.

David Plumb: Okay. Great. How about I? I'm sorry, I wasn't entirely clear if you were talking about beyond H. Great, with the queue here, just looking around I see Margie, then I'll swing over to this side. Yes, and sorry, talk about the brackets, yes, sorry, Margie.

Marika Konings: Sorry, David. Yes, so this is Marika. So the purposes that are in brackets and similarly the Also Pursued by Party Identified, when it's in brackets it was suggested by some that that should be considered as a purpose either for that actor or also being pursued by that group but that wasn't something that was collectively agreed so that's kind of a suggestion. So indeed, if people feel strongly that it shouldn't be there, like you just did, Milton, that should be said, or if some feel that it should be there, I think the group should discuss it as well.

And then indeed decide is that something that's taken on to the next exercise or are they for now left behind? But again, that doesn't mean that those are out, it may just mean that we come back to them after having put through first a set of purposes where everyone feels comfortable that those are ready to take to the next level.

David Plumb: Great.

Kurt Pritz: Can I rise to a point of order? I just want to get clarification on Milton and Julf's comments. So which part of your comment went to the purpose itself and which part went to the also pursued by? Because I think we're capturing ICANN interests here so if we can...

Milton Mueller: Yes, on B and G we think that those are not ICANN purposes at all, those are third party interests and shouldn't even be in the list.

David Plumb: With H, I and...

Milton Mueller: In some ways H is kind of a restatement of B. And again, we have the same attitude towards it unless we misunderstand what's being stated there.

David Plumb: Right. Okay.

Margie Milam: So a couple things, so on A, I would suggest putting also pursued by registrant in – where are we – in H, I, J, K. I need to understand why there's legitimate interest grounded in legal basis, what that means, it sounds like there are two different tests there so I want to talk about that.

David Plumb: H and K? Sorry?

Margie Milam: Wherever it says "legitimate interests grounded in legal basis."

((Crosstalk))

Margie Milam: So I think that's in there in four places. And then the legal basis I guess we consider adding the contractual ones for several of these but I don't know – we could talk about – are we going to go line by line eventually or are...

David Plumb: Yes, we're just naming...

Margie Milam: Okay.

David Plumb: Let me tell you why we're doing this, because we're naming – we're going to split actually out and work on these specific things separately in groups, right, so that's where we're going. We don't need to resolve it right now, we just need to know where we need to be to work.

Margie Milam: Okay.

Julf Helsingius: And how do we plan on capturing that (unintelligible)?

David Plumb: We'll bring that back into the main group whatever happens, and we're going to bring that back to the main group and say, hey, this is where we got to in that conversation.

Margie Milam: Okay. And then adding registry in C, E and in M we would put registrar and registry. Thank you.

David Plumb: So that's just on the final column of Pursued by Also? Okay.

Kristina Rosette: Kristina Rosette. I am very discrete but sort of macro-issue and then I have a specific comment about A and I'm going to leave the rest of them to my colleagues. I'm finding it a little bizarre, quite frankly, that we're trying to go through and discuss these ICANN purposes without any input from ICANN itself. And I'm mindful of the fact that Dan and Trang are here. I think it would be really helpful to get their input and views on these as we go forward because otherwise I think we may be creating – to pick up on James's Jenga analogy, we may get to the top and realize that the bottom is about to come out.

((Crosstalk))

Kristina Rosette: That too. So that was kind of the overall macro point. I will also say that I have never understood what A is intended to cover and I think it's extraordinarily important that we're precise with our language here. So I think before we get too much further I think it would be helpful to come to a common and clear understanding of what A is intended to be.

David Plumb: Right. Thanks. I see a bunch of hands up and I want to encourage folks, when you make this comment, know that we're going to make conversations on each of these, so right now what we know is if there's other things you want to have a conversation on, A or B1 or B2, you got it, we're going to

make a group on that. So let's figure out where else do we need to focus our attention. I'm going to jump to the back of the room and then come back up.

Dan Halloran: Thank you, David. Daniel Halloran for ICANN Organization. And thanks, Kristina. I wanted to actually jump in on some of the same points. Trang and I are here representing ICANN Organization and at the top of the page it talks about purposes pursued by ICANN which is broader than just ICANN Organization and actually what you guys are here for is to tell us what ICANN's purposes should be. We're here to provide information and help out from an ICANN Organization point of view, but I think it's a lot narrower and I want to make sure we're all on the same page when we're talking about purposes pursued by ICANN that that is broader than just ICANN Organization.

And just I'm also with you on the precision of the language points here. In the purple there at the top it says, "ICANN is processing registration data." It's actually pretty rare that ICANN itself – ICANN broader or ICANN Org, is processing registration data. I think what we're talking about here is when ICANN is requiring other parties, registries or registrars, or escrow or all of these other parties to conduct processing because it's not ICANN itself that collects the data or that, you know, processes or transfers it except in a few, you know, limited cases when we're talking about compliance data and stuff.

So and I want to just – a little bit of caution too, because you had kind of raised a thing, is everyone agreeing to this? Does everyone have any concern? So I just want to make it clear that by our like if Trang and I are silent here that doesn't mean we're agreeing that all these are ICANN purposes, or ICANN Org purposes, we're here to provide information and help out. And we also don't want to get in the middle or slow anything down, we don't have any particular policy outcome preference or position on this stuff, we're here to support the whole team and help out, provide whatever information we can. Thank you.

David Plumb: That's an important change in the language of ICANN data or seeks data to process, require others to process. That's helpful, that little line at the top. We have Caitlin and then I'm going to back over.

Collin Kurre: Hi, this is Collin Kurre for the record. I just wanted to elaborate on Milton's earlier statements. So I think that out of H, I, J, K and L, the point that we would be most comfortable with would be H, as we find that mitigating DNS abuse would be the most likely to fall within ICANN's remit whereas consumer protection, investigation of cybercrime and intellectual property protection do not. And then L is the most problematic insofar as it is a confusing amalgamation of the preceding processing purposes. You've got a lot of – a lot to unpack in L, so good luck to that group.

Milton Mueller: If I could do a two-finger intervention just saying that I had not properly read those and so I totally agree with Collin's points.

David Plumb: Okay I'm going to jump over here and then I'm going to come over there. All right, Benedict, Alan.

((Crosstalk))

Benedict Addis: Hello. Hi, guys. I'm sorry, this is not going to be a line on a purpose but I'll try to do it within 30 seconds. Dan, in response to you, we – I think I speak for the group when I say that we have seen this as purposes pursued by ICANN the community and the conflict at the heart of this is that effectively because of the odd nature of ICANN, everything – all of these public policies are – ultimately have to be implemented in contracts because we're not a public body, and as Alan has quite rightly said, ultimately ICANN Org, signs the contracts.

So we've defined some nice sounding purposes here, which we may or may not agree on, but ultimately this – these have a contractual relationship which ICANN Org is signing. And so we need to understand if ICANN Org is

prepared to stand by the purposes defined by this group because otherwise we haven't got a hook to hang out hats on. So without committing ICANN Org, can you explain whether ICANN the organization is prepared to support the outcomes of this group please?

David Plumb: Let's bounce back quickly to Dan on that because it's such a specific question. Dan, do you want to take a stab at this?

Dan Halloran: I think it's – I'm looking at Chris because it's actually sort of easy what ICANN Org does, which is we do what the Board tells us and the – and the Board adopts recommendations – you guys tell the Board what to do.

Chris Disspain: Why did I sit where there was no microphone? That's bizarre, very strange for me. Hi, everyone. Chris Disspain. I think the answer to that question in simple terms is yes, on the basis that the GNSO will come to the Board with a – assuming this happens of course, the GNSO will come to the Board with a bunch of recommendations pursuant to a PDP. And whilst there are circumstances in which it's possible for the Board to not accept those recommendations, and that's all in the bylaws and then there are consequences for that, etcetera, etcetera as a fundamental principle, yes you can take it as a yes unless there's a real issue.

Now that said, in the same way that we did with the CCWG and have consistently done for some time, I think if we thought that there was anything really disastrous we would probably say so. And then you would choose to make of that what you will. But I think our goal, Leon and my goal being on this working group is to – is to help if possible and answer questions like this and also throw in – and it's early days yet, but at a later stage if there are times where we might need to throw some stuff in that says, guys, you need to think about it – look at it this way for this reason we'll do that. But I hope – but fundamentally yes, we – the recommendations come from you and would be endorsed by the Board except in exceptional circumstances.



David Plumb: Great. Thanks. Lindsay and then Alan and then I'm going to jump over to this side of the room.

Lindsay Hamilton-Reid: Collin said and Milton – oh sorry, Lindsay Hamilton-Reid, sorry, I keep forgetting. Apologies. Looking at this list, the only things I can see that are really follow up for ICANN purposes would be A, C, E, F and H and M; the rest, frankly are not ICANN purposes. They do not process data for that reason. So I think we've really got to be very very careful what we're doing here. Sure.

((Crosstalk))

Lindsay Hamilton-Reid: Yes, so the ones that I think that are ICANN purposes are A, C, E, F, H and M and some of those might even need to be rewritten.

((Crosstalk))

Gina Bartlett: That would mean we'd need to add B to the list of things to discuss because (unintelligible).

Lindsay Hamilton-Reid: Okay.

David Plumb: Jump to this side of the room, I'm just going to down the line. Let me start here and I'll keep going down the line. And I know that Kavouss has his hand up too so I'll jump to him in a second.

Hadia Elminiawi: Hadia Elminiawi for the record. And so I'm speaking about L. I think here that we combine the needs of the law enforcement with the prevention and detection of cybercrime, illegal DNS abuse. And I'm not sure that I agree with combining those two. And then if we are to combine them then I would suggest another wording and adding a few lines about some of this stuff like detection of fraud and consumer protection.

David Plumb: Great. Actually, before I go – and sorry to do this but before we go further down this line, right, it seems pretty clear what's happening, right? It seems pretty clear that there's a group that needs to talk about this packet, H, I, J, K, L. Right? Those are very related pieces, right? And they have similar kinds of issues that have been written, right? But there's a group that needs to have this conversation. There's a group that needs to deal with A and what the heck do they actually mean and why is it there? Right?

B1 and B2 have been named and there's probably a group that needs to think about why is this here? Why should it be here? Should it not be here? Is this somebody else's purpose? And then D, I'm not sure, I can't even remember what D is, but stand alone, somebody, oh it's one more that Lindsay said, yes, doesn't work, and G, well so maybe we could combine.

So just to be – before we jump to other comments, is there anybody who would feel that things they're about to say right now wouldn't fit into a conversation that tries to make sense of what's going on in H, I, J, K, L? Or A, or a B1 B2 conversation, or some combination of D and G and does that make sense? Do I have it right? Something else? Then this is the time. Okay, let me just – I'll just keep going down the list if that's something – Alan, you got your finger up, is there something you want to say that's beyond the scope of what I just said? Okay. Did I skip Alan? Okay, hold on just one second, Alan, okay? I'll come back to you, I promise. Alan Greenberg, 30 seconds.

((Crosstalk))

Alan Greenberg: Okay, I won't talk about the general stuff, however, I'll point out as other people said, language needs to be precise and I don't think the phrase "supporting a framework" comes anywhere near what the right words are so as we talk about going forward, I think we're going to have to look at the structure. And number two, I would like someone to really explain to me the interaction between H, I and L because they seem to be somewhat repetitive.

David Plumb: Exactly. So that's that group that needs to happen. I'm just going to jump right over here, quick, Alan, sorry to jump over you like that.

Alan Woods: It's a very small point, I apologize, I have to apologize to Margie, it was something that you said. It (unintelligible) this concept of registrant purposes, the registrant is the data subject; they have no purposes, it is their data. We cannot talk about registrant purposes, it is absolutely a misnomer.

((Crosstalk))

Alan Woods: Yes, sorry.

((Crosstalk))

David Plumb: Okay great. All right, Margie, you want to say something on – that's beyond what we have on the wall here?

Margie Milam: I added M in my prior comments but it's not on there, so...

Gina Bartlett: Oh thanks for catching that.

David Plumb: Yes, is it part of that package or is M – I can't remember, is M different than that package of H, I...

Margie Milam: Yes.

David Plumb: ...it's a different beast, okay. Let's make it separate. Okay great.

Farzaneh Badii: I just wanted to say if you could consider we discuss H, I, K, J, L and not in a group but as like the whole meeting, we can discuss it because I think that's going to be where people are all going to go and you're not going to have many others in the other group.

David Plumb: Okay. Let's see what happens. Okay. And if that is the case I'm still going to ask you to do it in smaller groups simultaneously might work, right? Because I think it's an effective way to try to work.

Stephanie Perrin: Just wanted – a couple of points. Stephanie Perrin for the record. First I'd like clarification from Chris Disspain that what he's basically saying is yes, ICANN is the data controller for the following purposes listed on this sheet. They are achieving through the appointing data processors to achieve these ends. Secondly, I want us to be clear about what role the GNSO plays in this because yes, this is an EPDP that is enfranchised by the GNSO with our charter. The GNSO will report back. At that point the Board as data controller will weigh in on what it feels it wants to do or not do. So a little clarity about this is I think fundamental to determining these purposes.

And my third point is, without being disrespectful of this process, one has to recognize there's a lack of trust in this room so the moment we split into groups those of us in the Non-Commercial Stakeholder Group who are here to, A, see that data protection law is appropriately applied, and B, look after registrant rights, we're going to have split up and make sure we got a person in each one of these groups. So clustering by interest doesn't necessarily ensure a speedy outcome because failure to have all interests represented at each group will result in chaos when it comes back to the main plenary. Just pointing that out. Thank you.

David Plumb: Yes, why don't you respond real quickly on that?

Chris Disspain: No, that's not – no, Stephanie, I wasn't saying anything of the sort, I was simply talking about the way that the Board deals with recommendations from the GNSO in a PDP which is what I was asked. I wasn't commenting at all on roles, responsibilities and respect to data privacy.

David Plumb: Great. Okay folks, oh yes. Kavouss is on the line. Kavouss, you have a comment or a question as well about this – about the purposes?

Kavouss Arasteh: Yes, I am on the line. Yes, I raised my hand. We have two different sort of direction. One, people ask which one from A to L should be maintained or deleted or combined or reworded; and the other is does ICANN accept the outcome of this group? I address the second one. Chris Disspain says that yes, we accept, that means Board accept unless is a really disastrous situation. If it is not really a disastrous but the disastrous we can agree. I don't think that is the whole answer.

First, whatever this outcome produce must be consistent with bylaw. Second, must be consistent with GDPR. And then going whether it is disastrous or not disastrous, in view of the Board. But these two issue is the priority, but not talking of disastrous on the judgment of the Board. First we have to see whether consistent with bylaw, consistent with GDPR. It is not, doesn't matter whether it is disastrous, not disastrous.

And second, you comment which one you have to treat from A to Z, some people they say that H, I, J, K and so on so forth, totally not discuss it, some people say that combine them together, some people say that reword them, some people say that delete them. So we really don't know what the direction. CBI claims that they want to direct us the discussions how to negotiate (unintelligible), so we are expressing that direction.

What course of action we should take with respect to this table? I think we should have a sub-column saying that retain, delete, reword, combine. In the combine saying that combine with what, in the reword. So we have to go through that exercise. I cannot agree that people think that H, L, M, N, so on so forth, take it out and discuss it elsewhere. So the direction of the discussion I'm sorry, is not very clear so we expect CBI to provide the guidance that they claim that they provide in order to have a constructive discussion. So thank you.

David Plumb: Thanks, Kavouss. And indeed we'll try to be clear as we can about the request of how to move forward and how to have this conversation. Is there another hand up? James?

James Bladel: Yes, just a question. I don't know how – this is James speaking. And just a question, it seems like we're on the verge of breaking up into small groups and tackling these things. And I just – I don't know how the rest of the group feels, and I don't want to be the problem child but I feel like if we do that, that we're going to spend some time unit working on that individually and then we're going to come back and try to harmonize and synthesize that with the larger group. And I feel like it's going to fail at one or both of those points.

Where I just – I don't see this group as being so large that we can't work through these things on the table linearly and that might save some more time. Am I completely off base on that one? Because if we had 100 people here I think it would be one thing but I don't think that we're going to realize a whole lot of time savings by breaking into smaller groups.

David Plumb: Okay. This is where I'm going to ask – come back to that ask, right? I absolutely hear you, okay? Let's try some things and let's take stock of how it works, that's okay? In terms of a process, let's try some stuff, see how it works, if it doesn't work, we're spinning our wheels, take note of that and we're going to try something else. Let's go down the line here. I have Milton and then...

((Crosstalk))

Milton Mueller: Yes, this is going to be a very simple point. I think we can again simplify our problem if we eliminate D from the discussion. If you look at what D is it says, "Allow the registered name holder to voluntarily provide administrative contact and tech contact data." Anybody who agrees with C probably – and C has not been challenged so it's not even on your list, would probably not object to D,

the idea of having optional data provision. So I don't think we need to spend time on that; I think we can just drop that off the list.

David Plumb: Okay, so again, what we can test if the person who put that up there agrees with you on that and then that's one less thing to worry about and that would be fantastic. I'm not going to do that conversation just yet, that's good to know. I have you and then I'm going to...

Ayden Férdeline: Thanks. This is Ayden for the record. This is a process question and I know that you don't want us to touch upon it, but Page 17 of our charter outlines our working methods and says that our meetings will be recorded and transcribed. So I am concerned that I we do breakup into these smaller groups I'm not sure that we have the provision to record those conversations. Thanks.

David Plumb: Good, so I'm going to ask staff to help me out to know if we are somehow violating some piece of our charter, if we were to get into smaller groups then bring back that content to the larger group with the microphone. I'll let you think about that for a second, get back to me on that, all right? Well point taken, thanks. Oh that was your point, okay. Great. Is that new, Alan? Okay, go ahead. Yes, Alan, go ahead.

Alan Greenberg: Thank you. I support breaking into small groups to try to get wording clear. There are some basic premises that are held differently by different people and I really think those core things need to be addressed as the group and specifically, as Milton pointed out, they believe that things like consumer protection, cybercrime, are not within ICANN's mandate; they're not one of our purposes and I really think we need to address that core – those core issues before we break down and start working on wording. Thank you.

David Plumb: All right, just a quick check on the, you know, is this group somehow violating its charter or things if it has small group conversations and brings back into the larger group, anybody in charge of that?

((Crosstalk))

Kurt Pritz: Well so this is Kurt.

((Crosstalk))

Kurt Pritz: So I might say some things that are unpopular with you. So Ayden, I think we wouldn't be violating the charter if we broke into small groups and reported back clearly what the results of those would be. However, you know, I heard James and some others and some nodding heads around the table about attacking this as a large group, so we're – we've said, you know, we'll try something and if we're spinning our wheels we'll try something else. So my thinking is watching the heads around the table is that this group would feel more comfortable discussing these as a group. I think there's four topics here, let's try one as a group, see how it goes and if you...

David Plumb: You mean this whole group?

Kurt Pritz: Yes, and if you perceive we're spinning our wheels, then we'll do something different.

David Plumb: Sure thing. Let's try something, let's take perhaps what has been positive, one of the easiest ones, dispatch that, see how that goes as a group. Then we'll move from there. Fundamentally, we have some ideas about how groups make progress, let's try, let's take D, for instance. Who raised up a concern about D? Who felt like again, this is – we're trying to get to the threshold over which we can then do a more detailed analysis which will then help us refine final language around this purpose. So I think that was Lindsay – it didn't fall into the ones – one of the ones that you called a...

Benedict Addis: I think Lindsay brought up E instead of D.



David Plumb: So it was just an error in our part? That's the easiest one to get rid of. Okay. Does anybody have a concern with D that they want to feel like they need to resolve right now before we move onto the next thing?

Alan Greenberg: D as in Dog.

David Plumb: As in David.

Gina Bartlett: I think I wrote down...

David Plumb: Always a difficult challenge with language. Okay, Stephanie, is this – so now – hang on, guys. I'm pretty sure, unless somebody wants to raise their hand, the whole question around D has just been solved because it was (unintelligible). Okay, is that the case? Does anybody need to weigh in there?

James Bladel: I just – I'm sorry, James speaking. I just don't quite understand – it's not that I'm objecting or concerning, I just would like someone to explain to me what D is saying. That it's – because I think it goes back to something that Margie and Alan, okay, like, you know, celebrity squares here, Margie and Alan were saying about it sounds like it's getting close to the interests or purpose for a registered name holder, which is to change – because the admin C and tech C would be a data subject and so it seems like allowing one data subject to modify or provide optional data for another data subject, I'm confused; I don't know what it's saying and I'm not saying it's not – doesn't belong in here, I just maybe we need to – this says Alan Greenberg – do we need to clean up the language a little bit?

David Plumb: Would anybody like to help James understand why this is an important thing to do further analysis?

Thomas Rickert: Yes, I'm not sure whether I can help but I can offer an explanation because I think that I might be part of the – of the cause for your question. I think the original purpose in the temp spec was to collect data for the admin C and

tech C for publication. And I think we've collectively said that that is not an okay purpose to pursue. So then I think this group converged on making it optional. But I think this purpose needs to be refined. So we could say that the purpose is to allow for (unintelligible) to name additional contact points, right? So that – but not necessarily...

((Crosstalk))

Milton Mueller: Which makes it part of C.

((Crosstalk))

David Plumb: If this specifically on this point, Stephanie?

Stephanie Perrin: Yes it is. Stephanie Perrin. And I do apologize for being somewhat pedantic about this. This is not a purpose. This is a – this is an implementation detail. The purpose, as Thomas has just described, is to allow registrants an opportunity to provide alternate contact points. So the purpose is tied up with how do you contact a registrant? And then this is implementation details which we should not be dealing with either in the purpose discussions or in the processing discussions. Thank you.

David Plumb: So if we were to take what Stephanie and Thomas to say right now, if we were to alter the language of this D, ended up there as a mistake but now we're talking about it, that language would look more like what just Stephanie said, is that correct? So we could take that language and run it through this analysis, do a double check to make sure we're (unintelligible), right? So we could write that down somewhere, somebody, right, and Stephanie, if you want to just say it one more time, if you were to state that purpose in a different way, what would it look like?

Stephanie Perrin: The purpose is to enable contact which ICANN is pursuing, is to enable contact with the registrant. The details of what data elements are required to

enable contact with the registrant are to be determined at a further stage down the process.

David Plumb: Okay, enable contact with the registrant. In this case it's provide, I don't know if you want to tag onto that the specific reason for the contact, which currently (unintelligible).

Stephanie Perrin: This is one of the – Stephanie Perrin again. This is one of the rat holes we get in when we start with these kinds of specific data elements that people are very fond of because they've been gathering them for decades. It obscures the real purpose.

David Plumb: Okay. So the real purpose would be that we would want to test now in this thing, this spreadsheet, the worksheet is to enable contact with the registrant. Okay. Okay.

Benedict Addis: May I?

David Plumb: Yes, please.

Benedict Addis: So I think Stephanie is saying that D is not a legitimate purpose and it should be rolled into C, is that correct, Stephanie? Great. So rather than delete D in line with what Thomas was saying, I would propose allow the registrants to provide data for third parties, this is the point – this is not the registrant providing data about themselves, so Farzi, you're making a face, and I agree, we can debate whether it's a good purpose kind of later in the legal thing like because we're going to have a discussion of legality later.

But what we're trying to say here I think is this is a registrant giving information about some other people who may be legal or natural persons, for the purposes of – for the purposes of processing, probably collection at this stage because we're not agreeing to publication. So it's a distinct thing from C which is the registrant, the collection of the registrant data in order to

communicate and notify with them, it's giving the registrant the opportunity to provide other information about other folks that they think may be necessary for contactability.

David Plumb: Okay, so hang on a second. There's a number of hands up. I just want to – I want to follow this thread. Okay? What are we doing? Started altering the language of D, Stephanie brought us to the place where it's actually the same as C, now we're being brought back to say, you know what, there is something unique in D which is registrants need the ability to provide information about others, right? That's what you're saying, okay.

So I just want to – on that particular thread, are we understanding those distinctions and are we able to close those off to get to that next place of studying them? Stephanie.

Stephanie Perrin: Stephanie Perrin for the record. Not to be pedantic again, but that's an implementation detail, that is a cost benefit kind of thing. And it's not something that we should be discussing when we're talking about purposes. You know, if a registrant wishes to provide a whole range of contacts, then the analysis at this point, when we're doing the implementation of our policy, is okay. Who's willing to spend what money on what kind of a complex matrix to allow other data fields to be added? But that's much further down the pipe.

David Plumb: Okay. So I want to follow this particular thread, see if we are eliminating D or we feel like has something useful in it. Okay? So I have two comments here, Milton here, Alan has his hand up, Mark as well. Okay, I'm going to down the line real quick, please stay on the thread of this specific thing. Kavouss as well, okay.

Milton Mueller: So yes, this is Milton Mueller, NCSG. D, if you look at C it says, "Enable a mechanism for communication and notification to the registered name holder of technical issues with the registered name." So the admin and technical contact are, for the purpose of notification or communication with the

registered name holder. All we're doing is saying they can add some other people to do that job for them. So I still think C and D are essentially the same purpose.

David Plumb: Okay, so you feel they're the same, they can be merged without having problems, okay.

Farzaneh Badii: Farzaneh speaking. I just wanted to add that I disagree with Benedict, and I think we should just keep the language here and merge C and D for the optional additional data for admin C and tech C because we agreed that we are not going to collect more data elements for Whois, right? That was like – okay. So if we just merge these two I think we will be okay.

David Plumb: Just real quick, if you say that, what does the language on C now look like if it's merged? Does the language on C change? Farzi, go ahead.

Farzaneh Badii: Well, yes, we have to connect the two together and I – my English is a bit rusty now, so we just have “enabling mechanism for the communication or notification to the registered name holder of technical issues with a registered name and allow the registered name holder to provide optional additional data for admin C and tech C.” That's it, only admin C and tech C.

David Plumb: Okay. All right, go down the line here. Alan.

Alan Greenberg: Okay thank you. The main difference between C and D is D makes reference to admin; C doesn't. So clearly they are...

((Crosstalk))

David Plumb: ...merging?

Alan Greenberg: I would be okay merging but I believe the wording in C is the critical one that we need to enable a mechanism for communication, okay? So it is not – it is

fine for me to say I'm not going to provide technical contact but I have to write some other contact that can be used for technical purposes because we – that can't be an empty field, it can be filled by default, it can replicate something else. So the wording I think is really careful, the concept of we are collecting data on, you know, on another party I think we want to avoid like the plague. How the registrars are going to get approval of a third party whose named by the registrant is something we don't even want to think about. So it's up to the registrant to supply the contacts, we can't specify it's going to be a third party.

David Plumb: I'm going to keep going down the line. Mark.

Mark Svancarek: Mark Svancarek for the record. I would like to merge them but I do think we have to deal with the fact that if you name a third party that you probably need their consent if they're a natural person. I mean, if you name an admin contact or a tech contact, that person might now know that you are putting their name in there and so I think that the additional legal basis of consent might need to be mentioned there. And so since we were trying not to have two justifications on a single line, that's just something we should consider if we're going to merge these two lines together that there might wind up being two legal bases within one row.

David Plumb: Okay. Good to know. Thomas.

Thomas Rickert: It's Thomas. This is one of the instances where I think it's – it proves to be disadvantage – of disadvantage to look at the purposes in isolation because we might find that, you know, you don't need that, the additional contact point but you could potentially have some (unintelligible) 6.1(a). So I think we're wasting our time trying to come up with definitive language for this, we just have to write up that we need to look at contactability and what is required under what legal basis for contacting.

David Plumb: Stephanie, want to jump in on that? I don't – wait – hang on just one second, Stephanie, there's another – you guys want to do this same thread? Oh you're not – we've got...

((Crosstalk))

Diane Plaut: Pardon me. Thank you. Diane Plaut for the record. Alex and I are aligned on the fact that we agree with Milton that these could be tied together and certainly can look to the language that says “and allow” and we think that the word “allow” provides for the coverage of the consent concern because you're not forcing someone, you're not forcing a registrant to provide that information, you're giving them the opportunity to and they certainly don't need to provide third party information, they could provide additional corporate information or information of their own.

And then we were also going to add the fact that we would want to consider the additional wording of technical and administrative issues because administrative issues need to be addressed that might not tie into technical as a whole.

David Plumb: Right. Thanks.

Diane Plaut: And could I just add one...

David Plumb: Yes.

Diane Plaut: ...other point. And in due respect to Thomas, I do think that we're making some progress here and rather than putting this on the back burner again like we do with a lot of other issues, we could all – it seems like we're formulating a consensus around this and if we could then get the language situated and perhaps even like vote on it through our mechanisms and make some progress, that would be great.

David Plumb: Okay.

Stephanie Perrin: Stephanie Perrin for the record. Again, I just had to raise my hand after Alan's intervention because I think this is a pretty good example of the kind of rabbit hole that we go down once we start getting into the precise data elements. So the purpose of ICANN's processing is to contact the registrant. How that happens is an implementation issue. Yes, if they delegate someone that's a whole new data processing activity, that's a whole new set of liabilities, data controllers, under the GDPR. So if I delegate, I don't know, Symantec to look after the security of my website, then I have a new third party engaged that becomes a data processor. It gets ridiculous.

We have to keep it at the basic level in order to get through the basic processing activities of ICANN. And in the case of non-personal registrants, these are necessarily very complex, I take your point, there's all kinds of technical, admin, legal, everything that the EWG identified as potential different contact points. But they've all got a contractual relationship to the registrant. So ICANN is not concerned at that point. The only, as I said earlier in my intervention, the concern with ICANN is the negotiation of whatever framework is necessary to allow these extra data fields to be a part of however we manage the registrant data. Thanks.

David Plumb: All right, so I know Kavouss is on the phone. Kavouss, you still want to get in on this specific point about how we're combining C and D and whether...

((Crosstalk))

Kavouss Arasteh: Yes, if you allow me I want to make, yes, I'm waiting (unintelligible) all other face to face meetings the queue was that everyone could communicate but unfortunately (unintelligible) excluded to participate in face to face, I'm excluded even to – when I raise my hand to talk. So could you please assure that? When I raise the hand...



((Crosstalk))

Kavouss Arasteh: ...you give me the floor (unintelligible) time.

Kurt Pritz: Kavouss, this is Kurt.

Kavouss Arasteh: I do not understand.

Kurt Pritz: Kavouss, this is Kurt, we have a dedicated person...

((Crosstalk))

Kurt Pritz: ...here to take your call.

Kavouss Arasteh: Could you allow me to...

((Crosstalk))

Kurt Pritz: Yes, please do.

Kavouss Arasteh: Yes, please kindly then – please let me explain. I think the old face to face meetings that I have attended, the remote participant was given the same identical opportunity as physical participants. This should be maintained. Now, can you assure me that that will do or not? If you can do that, I can explain my point. Someone said that...

Gina Bartlett: Kavouss, we are – Kavouss, this is Gina. The procedure that we are doing is we have one person monitoring when you raise your hand and we're immediately putting you in the thread in the queue to speak. And there is other people ahead of you and then we're immediately going to you when you're in the queue. So we are trying to make sure that you have an opportunity to contribute and we have one person monitoring when you raise

your hand and then we immediately put you in the queue. So we appreciate your patience...

((Crosstalk))

Kavouss Arasteh: Excuse me. Excuse me, that is not...

Gina Bartlett: ...we know it's a lot but everyone in the room is waiting.

Kavouss Arasteh: Wait. Wait please. This is not the proper course of action. Everyone should speak to the Adobe Connection chat room. If they are present at the meeting, they will be given. So I don't think that you can have two different channels, is that correct? The process is not correct. Is ICG was not the same, in CCWG was not the same. Everyone whenever present or remotely should speak to the AC, Adobe Connect chat. That's all.

So I don't want to (unintelligible) because that person who raised his hand waiting for minutes and minutes. And I don't think that the other channel could work. There are two independent channels, that doesn't work. You should put them in sequence. If you don't allow me to speak that's it, I'm excluded from participation remotely. So please kindly totally exclude these two channels. Should be one single channel. Talk to the AC, everybody, present or remote then you can see the queue, otherwise you cannot. I'm not blaming you, I'm saying that my disappointment and frustration – I cannot talk.

Now having said that, someone wrongly mentioned that establishing a small group is inconsistent with the charter, it is not, it is not. Any time that you have (unintelligible) and you cannot do a drafting with 24 people, a small group would help. So there is no problem to have a small group.

Thirdly, there is a problem whether D is purpose or not purpose. There is another problem with C is contradiction with D or there are (unintelligible)

each other with some application. So you could have a small group to expand the C to cover the objectives of D and then D will be deleted. So nothing wrong with that. So it means that C could be expanded, could be reworded. You cannot do with 24 people, with a small group once they come back with something they modify C in a way that being a purpose, then D could be deleted if the objective of D is reflected or is achieved. So that is what I wanted to say. Thank you.

David Plumb: Okay great. So on the process thing, Kavouss, you and I are going to talk over lunch and we'll figure out how to make this work. On the substantive piece, I feel like we're at this place where we are very close to be able to say let's merge C and D, right, bring that admin language into C, okay? And then use that to do our analysis – more detailed analysis about what data we're talking about. Right?

There is a question mark in my mind when you do that merging whether you make the specific reference to those two contacts that are in D, okay? And if you don't know where you're at with that, but I'm feeling you are very close to merging those two in part to bring that admin consideration into C. okay? And then whether there is specific mention of providing admin – what are the two preferences in D? It's called admin...

Kavouss Arasteh: Can we agree online right now or you want to give it to some people to work on that?

David Plumb: No...

Kavouss Arasteh: If you can do it, please propose a text. Please propose a text.

David Plumb: So you know, why don't we put the draft text in Adobe Connect and I think Gina, if you have that on the wall, you're working on it, okay. It seems to me, and this is why word smithing in a large group is kind of tricky, but it seems to me the gist of what we're talking about when we merge is you put into C a

mention of admin, because right now C is just about technical. And then there's a question mark whether we have this other piece about mentioning a registrant's possibility or option providing (unintelligible).

Let's look at the board, is this what we're talking about? Is that it? Is this right? Is it close enough with right? Yes, sorry, language challenge. Okay. Is this getting admin enough into this? Sure. It's enable mechanism for communication with registered name holder of technical issues with a registered name and allow the registered name holder to provide optional additional data for admin and tech.

Okay? Jump right in, Benedict.

Benedict Addis: Hello. Hi, guys.

((Crosstalk))

Benedict Addis: Hello, everyone. Hello. Hi. Hi. Hi. Hello. Hi, Kavouss. I think that just squeezes together C and D which isn't good. And as I'm the one that raised this objection I think I'm going to decide not to die on this hill if that's okay. And I'd like to propose some simple alternative language, which just says, enable a mechanism for the communication or notification to the registered name holder or nominated parties of technical issues with a registered name, or something like that. And then completely bin D.

David Plumb: Yes.

Benedict Addis: I see some nodding. Huzzah.

((Crosstalk))

Kavouss Arasteh: Put it in the chat please. Put it in the chat.

David Plumb: Got it write it down. Hang on. Hang on. We've got to write it down and okay guys, yes, so we're going to need to repeat that, Benedict. Benedict, you're going to need to repeat it a little bit more slowly.

Benedict Addis: Okay so just the insertion of – and I'd love Thomas, if you're with us, I'd be really interested in your view on how delegation is accomplished in kind of normal GDPR world like how do you say by the way, and let's acknowledge, this is mostly for companies; this is where Facebook.com is registering a name with Mark Monitor and they want to say hi, I want a tech contact and I want an admin contact so this is normally not for natural persons, I'd get as a rough guess. Do we have a way to do that in normal GDPR Thomas?

David Plumb: But wait, wait, wait, wait, wait, wait, text first, text first.

Benedict Addis: Okay. Text first would be to the registered name holder and/or their delegated third party or nominated third party.

((Crosstalk))

Benedict Addis: Can't be...

David Plumb: Their nominated third party.

((Crosstalk))

David Plumb: ...nominated party.

Benedict Addis: Delegated party. Cool. Stephanie. Oh sorry.

David Plumb: And then what's the last part of the sentence?

Stephanie Perrin: Has to be delegated party. Gets into...

David Plumb: Okay.

((Crosstalk))

Stephanie Perrin: ...another rabbit hole if you do third party, just delegated party.

Benedict Addis: Thank you. Of technical issues with a registered name.

David Plumb: Of technical issues with a registered name. Okay, the rest of that goes away. Okay, great. Quick before we go to Benedict's question on the delegated piece, how are we doing on the text? Let me do a quick check in, can anyone – it's about the text? Okay, Margie.

Margie Milam: Regarding the text, so since we've included the technical and administrative contacts, we have to also include administrative issues so it's technical and administrative issues or but...

David Plumb: I was sort of waiting for someone to say that. Okay yes. Technical or administrative – thank you. On the text, is there anybody who can't live with this new text? I hope someone's typing it in the AC chat as well? Yes. Enable mechanism for communication to registered name holders and/or delegated parties of technical or administrative issue – administrative issue with registered. Can anyone not live with that? Okay, let me go – Stephanie first and then I'm going to go over here. Stephanie.

Stephanie Perrin: You have to keep it general because the moment you pull out technical admin, then the question arises, okay, what about legal, what about abuse? What about, you know, we don't need technical and admin, we just need to contact the registrant or his delegatee.

David Plumb: Okay so quick amendment A is to take out technical and administrative and just say "of issue." All right? How about just a contact? Okay, so wow, guys, this is the tricky thing about drafting in a group, we got to keep a thread

going, guys, or else it's not going to work, right? We were really close here, and then we said, you know what? Let's just take out the whole bottom half of his and just say to contact. Okay? Let me go over here to Farzi and then Kurt.

Farzaneh Badii: Farzaneh speaking. So when we are now changing the data field, and so you are suggesting that we actually change the data field in Whois and instead of admin C and tech C, have a delegate. And also we are not considering registrants here who are – might not be businesses and they will get confused. And I think we should really limit ourselves. What's wrong with Admin-C and Tech-C? And I disagree with (Stephan), it's like please do not (murder) me, but I think - we have clear - clearly established in ICANN that there should be Tech-C and Admin-C optionally provided and we can just put them there. I don't know why we are talking about delegates and other.

David Plumb: So your preference is to keep that original text, we just put it up right now, not erase that, because there is a logic thing, technical, administrative, because that - they are the fields today. Today, there are technical and administrative fields, there aren't other fields and so there is a logic in naming those things, so keep those in, be strong with the logic. Okay. Kurt, Alan and...

((Crosstalk))

Kurt Pritz: When we worked on this analysis sheet that we're going to use next, in the next step, we thought, and talking it over with Thomas that the questions that are going to come up are exactly these in this analysis, you know, the purpose has to be really specific so while I'm persuaded by Stephanie's generality, I don't know, when we do this analysis, if we're going to find ourselves saying no, we really need to be specific for it to be a purpose with a legal basis. So this is exactly the issue that we want to discuss at the next step and so I don't want to settle this issue here but rather settle it with regard to comparing it in the data analysis.

David Plumb: Okay, I want to stick with this thread, guys. We are so close and right now, what we're doing is we're trying to figure out if we want the specificity of naming technical, administrative issues or we don't. Again, our threshold here is just to do what Kurt says, get to that next (unintelligible). Alan and then let's work our way over (unintelligible).

Alan Greenburg: Thank you. A few points. Number one, there is no practical way to change the fields we're collecting so I don't care what words we use now, but if it includes the concept of later changing, there is no way to do it, no way that any of us want to live through. Number two, when the previous wording was there, which was when I put my card up, I was going to strongly suggest that we replace optional with unique because it is important that there be, for instance, a technical contact. It doesn't have to be different, but there must end up being a technical contact, so that's why I was suggesting unique. And lastly, I will point out the ludicrousness of us spending all of this time on items which really only apply to legal persons to whom GDPR doesn't apply.

David Plumb: All right. But that (unintelligible) put that final thing on hold, just for a sec, we're so close to getting somewhere. I want to go down the line here. (Unintelligible) same thread, I want to keep the thread going, no? Good. Let me go to Kavouss, I'll come back to you, Stephanie. Kavouss, did you have a comment about how to manage this particular problem?

Kavouss Arasteh: Yes, I have problem if we do not retain administrative and technical because they have issues, we ask what issue? So you have to say what issue you are talking about, so I am not in favor if someone propose to delete (unintelligible) and technical. Otherwise, issues is ambiguous, so we have to -- and now the question of Alan. We are talking of optional, we are talking (unintelligible) and then optional. That is a problem. What you do with the optional which existed in the initial text? Why you take it out? You can (unintelligible) people, this is not necessary, I have no problem. So, in summary we have to maintain technical and admin (unintelligible), otherwise issue has no meaning.



Second, we have to address whether this is optional or this is not optional.

Thank you.

David Plumb: Great. Okay. On that second point, am I understanding that the wording we're dealing with right now has eliminated the need to solve that problem around optional because it's no longer in there? So I want to test, before Stephanie says something, are we, with this language that's on the board that includes the technical administrative issue, is that in a good enough place to go do the next test, right? Is that a good enough place for us to go do like the actual thing of what data are we talking about and all the analysis on that sheet? So just a quick check on that. Stephanie, is that in a good enough place to go test it, the next thing, we want to test, we want to do before...

Stephanie Perrin: Stephanie Perrin and (unintelligible) arm wrestle Milton over it right now, so let's just leave it and we'll see, I'm right later. I just wanted - I just wanted to respond to Alan Greenburg's input here on it being only for companies.

Alan Greenburg: (Unintelligible).

Stephanie Perrin: Yes, actually, that's not the case. I mean, as a simpleton who doesn't want to be dealing with whether there's malware found on my site, I delegate that task to my service provider, so you know, these contractual relationships are normal and they're going to get more complex, though, plenty of individuals involved.

David Plumb: So one thing I want to name here is that I think we reached a preliminary agreement amongst all of you that we can use this text, which I hope is accurately displayed in the AC chat room as well as our way of testing the next exercise. And we did a nice little change where we combined things that needed to be combined, got this little thing hanging over our head, whether we're going to need to put that language in or not at the end, but we have something. Am I right? Is there anybody else who can't live with this going

forward as the text? That's my question. Okay. That's the text. Yes, so Benedict, no, we don't - no. It's not on.

Gina Bartlett: So this is Gina Bartlett. This text will be incorporated into the document the staff are refining as we go, so that we will have a revised set of purposes to take to the next stage. Okay.

David Plumb: Okay, sorry. Benedict, if you can't (unintelligible) with a (unintelligible).

Benedict Addis: Can we please drop a mechanism for so just enable communication or notification.

David Plumb: Aha. Okay. So...

Benedict Addis: Okay, so it's really (mealy mouthed)...

David Plumb: ...so we've gone into this place that Alan Greenburg sent us as well, which is ick, that mechanism for this and that (unintelligible) like bad (unintelligible). Right? And that's used throughout this document. Okay, but Benedict, your suggestion is let's just drop the word mechanism, to say enable communication.

Benedict Addis: Yes.

David Plumb: Okay. Can anyone not live with that suggestion, if we drop the word mechanism and you just say enable communication? Yes? Okay. Even better. So, oh, Kavouss, Kavouss - this is - are you...

Kavouss Arasteh: Yes, I - (unintelligible) the last proposal to delete mechanisms. I have raised this point several times that this mechanism is unclear, what mechanism? What type of mechanism? So if you don't use mechanism anywhere else, well, I am in agreement with the last suggestion. Thank you.

David Plumb: All right. We're going to give ourselves a round of applause. We made it. It's still morning and we have agreement on one purpose. Again...

((Crosstalk))

(Haviella): (Haviella). No, I'm just going to add something, it's for technical and, not or administrative issues.

((Crosstalk))

David Plumb: All right.

(Haviella): Yes, so that's it.

David Plumb: Please, go ahead. Yes.

Farzaneh Badii: Farzaneh speaking. I don't quite understand why we removed optional, you removed optional from the language, you said?

David Plumb: It's just not in the words that were said.

Farzaneh Badii: Well, optional is, no, it says optional, additional data for Admin-C. It has to be optional.

David Plumb: No, no, no - but there is no Admin (AC) - there's no nothing now. What there is, you read it, it's enable communication registered name holder and/or delegated party of technical and administrative (unintelligible). Sorry. What's going on, is there a problem in the AC chat? Yes, there's a missing a - so it's a registered name...

Man 1: It's probably with regard to or something, the (of) doesn't quite fit.

David Plumb: Of? We can - that level of adjustment we can work on later. But we're getting the gist of it right, we don't need the word optional, we don't need that stuff. What we need is we're enabling communication, we're talking about the possibility of delegated parties and we're talking about technical (unintelligible). Okay? So we have that language.

Gina Bartlett: David, I think we have (Lindsay).

David Plumb: (Lindsay), do you want to jump in on this real quick?

Lindsay Hamilton Reid: Lindsay Hamilton Reid. Thank you, Matt. Thank you. We're keeping or delegated parties, or is that just going to be enable communication or notification to register name holders of technical and administrative issues?

Man 2: No, we're keeping - we're keeping delegated (unintelligible).

David Plumb: We're keeping delegated parties.

Lindsay Hamilton-Reid: What does that even mean?

((Crosstalk))

Man 2: Representatives, that's what they use, that's why (unintelligible).

David Plumb: So...

Lindsay Hamilton-Reid: Okay, I'm sorry, delegated parties means absolutely nothing to me.

David Plumb: That's what Stephanie said (unintelligible).

Lindsay Hamilton-Reid: Yes.

David Plumb: So, just to be clear, yes, we were there - we (unintelligible), it's all right, it's all right, we're not dead yet. So with the - hang on one second. The reason for the (unintelligible) that language of delegated parties as we had it in was a nod to what was in the - that - the adminis - the registered name holder, they have delegated some others, administrative type of contacts (unintelligible) communication, as I understood it. That's why it's in there. We have a fundamental concern that it's in there? Doesn't matter either way? So if that's the case, let's leave it in there and then if we, in the exercise, we feel like it's really creating some noise for us, then let's try to tease out that noise and how we're going to address it. That make sense? All right.

Man 1: Go on to the next one before lunch.

David Plumb: Okay, so I understand lunch is at - however, we want to test one more of these before we go to lunch. Yes?

Woman: At least kick it off and frame up the issues, and the proposal is for B1, B2, G.

David Plumb: So let's tease this one up and figure out why it's concerning to us the way we have it written now, so we've grouped these three items together. B1, B2 and G. I hope there's some logic to that. I know what B1 and B2 are (unintelligible). All right. These are the generic ones. The highly generic or that word doesn't work well in this context, but highly open-ended (unintelligible). B1 is enable reliable mechanism for contacting a registered name holder for a variety of legitimate purposes set more fully out below. The other one is the same thing, for a variety (unintelligible).

So for people who raised their hands on B1 and B2 and G, (unintelligible) really just (unintelligible) saying why this is a problem and what we can do about it? Benedict was quick on his card, he'll get the first word and then I'm going to go over here to (unintelligible).

Man 1: Benedict, quickly.

Benedict Addis: I was actually going to define why it's in there and why it's different to H, I, J, K, et cetera and I think the thinking, and Thomas and I talked a lot about this so this is just our reflected thinking, if this is really justifying the broad collection of the data, so it's saying if (it's) a purpose, we acknowledge that there is a strategic interest in contacting the registered name holder and separately identifying them. Remember, contacting can be done anonymously. Identifying is probably a stronger thing to want to do so the idea is that those are to the purposes by which this data is collected in order to provide - in order to do more stuff, which is specified later, H, I, J, K, it's - but it is extremely broad and I imagine there's going to be some problems with that.

David Plumb: So what do - what can we do about it? We've got to think about - we just solved one, right? So let's think about solving these, too. What's the issue and what can we do about it? Let me jump over here.

Farzaneh Badii: Farzaneh speaking, so the first problem is that B1 says enabling a reliable mechanism for contacting the registered name holder for a variety of legitimate purposes, what Benedict said, which is we have established that we have to be specific about our purposes, we cannot have a broad language. It has to be also - it should not be like a long list that can be added to and this language, I think, is not GDPR compliant. I mean, I'm not a GDPR expert but I feel like -- and then B2 has the word identifying the registered name holder for a variety of legitimate purposes again and we don't have identification, we should not have identification of the registered name holder, that's not, I don't think it's ICANN purpose.

What it is is actually contacting the registered name holder so I think the word identifying has to be removed and then when we come to G, I don't think that's ICANN (unintelligible) and also like it's also very broad. We have to

discuss G in one of the phases of when we talk about the matrix. But anyhow, these were my comments.

Oh, you want solutions? Can I have some time for solutions?

David Plumb: Yes. That's fine. Thank you, Farzaneh, thank you, thank you. I'm going to jump to Milton, Alan, Kavouss in number three and then I'll jump to Thomas. Okay. Milton, help us out here, what are we going to do here?

Milton Mueller: Yes, so yes, I agree, that Farzaneh pretty much identified why these things are problematic but she didn't tell us what we can do about it. So, with B1, we obviously have to either eliminate the term variety of legitimate purposes and be more specific, and that gets us into C, it's quite possible that B1 is simply a duplication of CD, which depends on how that comes out, right? So we may be able to get rid of it altogether. B2, as we said, that - what we do about it is we simply delete it. We deep six it, we burn it and throw it out the window. It is not ICANN's purpose to identify registered name holders for any purpose that anybody might have. That's just not an ICANN purpose. You might think that third parties have an interest (unintelligible) some point, but we're dealing with ICANN purposes at this point so we've got to get rid of that.

David Plumb: Okay. Help me with the queue because it's actually gotten pretty confusing but so (Alan) (unintelligible).

Alan Greenburg: Thank you. Without wading into whether we're identifying or not, given that B and - B1 and B2 both refer to Article 61F and then say a unspecified set below, I don't know what they are adding that is not already specified somewhere below. Now, if they are adding something, then I think we need to identify which of the ones below and change the wording there, but this is just too vague to have any meaning at all, as far as I'm concerned. G is the only time I think we mention the words accurate and reliable, which are critical GDPR issues and should be covered somewhere but again, a vague one like this, I don't think - I don't think just - I don't think cuts it. Thank you.

David Plumb: Okay, before I jump to Kavouss on the call, then we continue the thing, I just want to summarize where I think we're at. What I'm hearing people say is that B1 and B2 really, when we're talking about this, doesn't add anything to what we might have below. So what is the value? We haven't identified the value yet. If someone can identify the value, that's what we need to go to right now, okay? But otherwise, it doesn't provide any value for what's down below and B2 raises additional concerns with the word identifying that gives people a bit of a heart attack, right? So both of them have serious questions of is there any value beyond what's already down below, therefore, should we just not erase? So Kavouss, I'm going to turn the call over to you, but that's really where we're at right now in this room. Kavouss?

Kavouss Arasteh: Excuse me, please allow the remote people to speak. In the last, C and D, you put communication and technical and the administrative in and/or but not both of them always, sometimes only one of them, sometimes both of them. So should we take the administrative and/or technical, or technical and/or administrative? Not both of them always, so please can we allow the people to talk? Thank you. Please add or - and/or. Thank you.

David Plumb: It's there, it's there, Kavouss. No? It's not there? Well (unintelligible)

Man 1: He's saying and/or between technical and admin.

David Plumb: Oh, between technical and admin. Okay, great.

Kavouss Arasteh: Yes, thank you. Thank you.

David Plumb: Okay, great. So let's get back into this other one. That was very helpful, Kavouss, thanks for that clarification. So folks, right now in the room, what we have is the basic sense that B2 - B1 and B2 don't add any value and B2 is actually concerning, right? Does anyone want to challenge that? Yes.



Margie Milam: (Unintelligible). I think identification is important, I think it - but you could blend it in where it applies. Like you've already, if you look in, for example, H, I, J, it actually does talk about identification there but it's not throughout all of it. So for example, there might be need for identification in F and in G, as an example. And so I just want to caution that it's okay to take it out if you incorporate it in the other places (unintelligible). Right.

David Plumb: Okay, so your point there is don't give up on identification, there may be some specific things down below that need it, but you're okay getting rid of B1 and B2 because they don't really add any value? (Unintelligible).

Gina Bartlett: James is next.

David Plumb: James is next, okay. (Unintelligible).

James Bladel: Hi, thanks, James and I think the conversation has moved on a bit but I was just wondering if (Dan) or (Trang) can kind of share with us any instances or any functions or even if there's a department over here where ICANN is contacting or identifying registered name holders outside of the context of compliance without the awareness of a registrar or registry and so

Benedict Addis: (Unintelligible) please?

James Bladel: So to me, that sounds like what - sorry, Benedict Farzaneh Badii, I (unintelligible) to interrupt you. Okay, so I mean, I was just kind of - we've moved on a little bit but it feels as though these - that just lends the idea that this is not an ICANN purpose, if we can establish it lower down. They just don't do this.

David Plumb: So James, let me just say, it seems like the vibe of the room right now is we want to get rid of B1 and B2 and then be specific down below about what those specific pieces are.

James Bladel: Correct.

David Plumb: Does that work with you?

James Bladel: Correct, because it would be a new purpose, because I don't believe they do it currently.

David Plumb: Got it. Okay. Super, that's great. I was - I think I was coming over to Alan?

Gina Bartlett: It was Alan, (unintelligible).

David Plumb: Okay.

Gina Bartlett: Then Benedict, Stephanie, Kavouss and Lindsay.

David Plumb: Okay. (Unintelligible).

Lindsay Hamilton-Reid: I put my hand down.

Gina Bartlett: You put your hand down, Lindsay? Okay.

David Plumb: Okay, (unintelligible). On this point, we're super close guys, right? We're saying that B1 and B2, according to what you're saying, really are not adding value, we need to focus on what's down below, right? And then there's this comment as well from (Margie\_, don't give up on identifying, let's look at it when we're looking at it down below.

Benedict Addis: First, James, really sorry. Not okay to interrupt. Apologies. That wasn't okay. Secondly, the language, H, I, J, K and possibly L is horrible. My proposal...

David Plumb: We're getting there, we're getting there.

Gina Bartlett: Put it on the list.

Benedict Addis: Right. My proposal is to retain B1 and B2 but with...

Kavouss Arasteh: (Unintelligible) we are not there, we are not there, please. (Unintelligible). We are not H, I, K (unintelligible).

Benedict Addis: Can anybody else hear anything in the room?

David Plumb: Yes, hang on a second, Kavouss. Hang on one second.

Benedict Addis: Thanks for the point of order, Kavouss. Thus the proposal is instead of saying really nasty vague variety of legitimate purposes, more fully set out below, in B1 and B2 is to instead say, only these purposes, colon, and then just put in DNS abuse, protection, consumer protection, investigation of cybercrime, intellectual property protection. Now remember, we are only here creating the collection mechanism for these things. My idea about where we go with this and bear with me for one second on this, is that we then define the data elements very tightly around those purposes, thus different applicants for data get different elements and we allow the applicants to propose those. Would that proposed mechanism allow us to break those (unintelligible)? So if we were to just say B1, B2, okay, no. (Unintelligible).

David Plumb: (Unintelligible), sorry, Benedict, the value of having it up above in the broad statement like you're saying and then referencing the specific things down below, what's the value of having that versus getting rid of that and just going straight to the pieces down below? That's the piece I think we need to resolve before we just cross these (unintelligible). What's the value of having it up above in a broad statement versus just going straight to the meat down below?

Benedict Addis: Because I guess I think it's the purpose of having this data. It is - the point of doing this - of collecting this data, really, after - immediately after A, reflecting the right, is the contactability and identification. That's the point of the having

registration on the Internet, it's why we use it in the (ID) space. So it's a broad statement justifying that, but I'd just limit it to only legitimate purposes set out below. I don't think it's bad to have that statement in there.

David Plumb: Okay, hang on one second, I don't know what happened to my cue, but...

Gina Bartlett: I have a queue. So I have Stephanie, Kavouss, Hadia, Collin and James. I know, James, you wanted to reply, briefly.

((Crosstalk))

David Plumb: Stay right on this very same thread, so if you have got another thread you want to take up, put a pause on that for a second and let's stay right on this thread of what's the value of having these two broad brush things? Is it important to have them there, (unintelligible), name it and then we get down below? Or is it just no value? So of those people in the queue that Gina just said, of those, who wants to say something specifically about that? Okay. Good. Stephanie. So we'll go to the next person in the queue. Yes.

Stephanie Perrin: Thanks. Stephanie Perrin. I raised my hand a while ago to try to speed us on our way by saying these preliminary purposes of ICANN should be boilable down to one word bullets or two word bullets and then we should express them in a nice, tight sentence that doesn't get us into these big, messy, everybody wants to see their data element data in there or their (unintelligible) in there. So the first thing is usually service delivery to the client, you know, like service, so is the domain name going to work? Then the second purpose would be, I would say contact, because once it's working, you still need to contact them and then, let me see now, what do we get to - oh, yes. Business continuity, always. That's for the protection of everybody, the registrants, you know, so that's all of the processing that comes with escrow, so but it's really business continuity.

Now, contractual compliance is also normal, but it's attenuated because remember, ICANN doesn't have a contract with the individual, they have delegated that contract and that contractual relationship to the registrars and registrees, right? And so contractual compliance involves all of those and I would argue that's where you get, and Benedict, you're not going to like this, but that's where you get your cybercrime investigation because in the contractual compliance, there are provisions that say you are not going to be doing the following bad things. And then in the processing arrangements, which also brings you right back to my accountability framework, because then anybody to whom the task of policing this has been delegated is caught in a data processing arrangement with ICANN. Are you following me?

David Plumb: Yes, so Stephanie, I want to try to make sure I understand where that takes us in terms of getting rid of these generic statements in B1 and B2. (It's on for you?) Okay, great. So Kavouss, I believe you're in the queue, I hope you're wanting to talk specifically about this issue of getting rid of B1 or B2.

Kavouss Arasteh: Yes, I want to do that but someone jump into the H and you put point of order. What was wrong with my statement? Because (unintelligible) has been talking about H and so on so forth. We are talking of B1 and B2 and (unintelligible). B1 and B2 are ambiguous because we are talking varieties of legitimate purposes and so on so forth. So these are ambiguous and both of them need to be deleted. But I don't know why when we talking B1 and B2, someone discuss H and you give them the right to speak. I think that I had (unintelligible) to say that we should speak to what we're discussing. Thank you.

David Plumb: Okay, thanks, Kavouss. I heard you on the (unintelligible) and again, I think over lunch, we can talk about how to make sure we're getting the (unintelligible) right here. Who's next?

Hadia Elminiawi: Hadia Elminiawi. So I think B1 and B2 should be retained because they speak about contacting and identifying and both of these two actions are

purposes and are actually not listed in H, I, J and K and I would actually say let's delete H, I, J and K and to make B1 and B2, let's be specific, let's say contacting and identifying and then we list the purposes and the reasons for the contacting, the identification and contacting them. And again, I would say H, I - H does not replace it, it speaks of identification of third parties and it speaks about access and that's totally different and it's badly written, also, yes.

David Plumb: Okay. Right, so we've got a couple of comments about how badly written those guys are, the H, et cetera and what I'm hearing is that the language about contacting and identifying could be the guiding language.

Hadia Elminiawi: Yes.

David Plumb: And then you can talk about the reasons you're identifying or contacting. Those reasons are the ones that are listed in H, I, J and K.

Hadia Elminiawi: Exactly.

David Plumb: Okay, so I think we actually might be saying something of the same thing. Right? Actually whereas identifying and for some, excuse me, contacting and for some, identifying, are the guiding things that you're doing and then you need to list off the way, which are currently listed in language we all don't like down in H. So whether you're eliminating B1, B2 or whether you're reformulating them to bring up your H, I, J, K elements into them, it's almost the same thing. Am I...

((Crosstalk))

David Plumb: Almost. Okay. So Collin (unintelligible).

Collin Kurre: I was actually...

David Plumb: (Unintelligible)

Collin Kurre: Sorry, this is Collin Kurre. I was actually going to make a point about G so maybe I'll like, I'll pocket that for now.

David Plumb: G, yes. Great. That would be great. So let's talk about this. (Unintelligible).

Gina Bartlett: So I've got James, Alan G, Thomas and Diane.

David Plumb: And then Milton and then (unintelligible), too.

James Bladel: This is James. I'm out.

David Plumb: Stay with this...

Gina Bartlett: You're out, James?

James Bladel: Yes, I just wanted to clarify to Benedict that we're talking about ICANN purposes so everything he said - my point was I don't think those are ICANN purposes, not that they're not purposes. Thanks.

Man: Right and that's the point that you were missing right now, David, was that that the distinction (unintelligible)...

David Plumb: If I - one sec. There is tons of things that I'm missing that I want to make sure that you all do it and I want to make sure that we're giving folks some semblance - so if we could - let's figure out how to untie this knot of the connection between B1 and B2 and the stuff down below, which is why. Okay? So if you want to stick to that, let's jump back into that queue, Gina.

Gina Bartlett: Alan G.

David Plumb: To that specific point and Milton, we're going to get (unintelligible).

Alan Greenburg: I think I was one of the ones who asked why are they there and I'm going to ask a qualifying question. H, J - H, I, J talk about giving out the information. Collecting it is a processing activity and it doesn't seem to be mentioned anywhere else and this might be the key of why they're there. I don't know, but certainly that has to be covered somewhere.

David Plumb: Okay, okay, great. Who is next, Gina, sorry?

Thomas Rickert: So the question is, do we keep B1 and B2, so where does this language come from? It was the starting sentence before a bullet point list but I guess that's a little bit forgotten now, and when we've discussed this, it was not for Benedict and myself to delete things, but we got feedback from the contracted parties that we must not have identification of a registrant or the contactability in one place. This is why we've created B1 and B2 to make sure that we have a different discussion on contacting the registrants, vis-à-vis identifying those. This - the language in B1, B2 and H and whatever is broken. We should get rid of B1 and B2 and then (connect) the purposes for which the registrants need to be contacted or identified and then check the legality of those.

David Plumb: Great. Okay, so that sounds very coherent with a lot of the comments we have coming around. Gina, let's roll it down and I'm conscious of the fact that lunch is literally sitting out there.

Gina Bartlett: Diane and Milton and then maybe we can check in and then I've got another group over here.

David Plumb: Yes.

Diane Plaut: I think we're making great progress because taking Benedict's suggestion, which I think is an excellent one and together with Stephanie and now Thomas', I think that we're getting to where we need to be because ultimately



we could - either whether we keep B1 and B2 or not, if we identify, we could roll the B1, B2 into some kind of combination with H through K or H through L to come up with the listed purposes as identified through the bylaws and then have the specificity with it we need under the GDPR and if we are able to use the contacting and the identifying and then list, as Benedict said and have those specified purposes, get rid of maybe the less vague language that exists in H through L and still maintain M, which has the direct connection through both S and through a contractual obligation as it exists, then we could be in a much more solidified juncture. And I think that we have the capability of all agreeing on that.

David Plumb: Milton.

Milton Mueller: Okay, I've forgotten the specific wording of the question that you tried to sum up the conversation and say what was wrong with that.

David Plumb: Yes.

Milton Mueller: What was wrong with that was that you were not distinguishing, you were not looking at the third column, what is an ICANN purpose? Okay, and that's what governs collection, so and what is a third party interest? Okay, now all of this stuff in H, I, J, K, L and M are third party interests so although there are some assertions in there that there is some kind of registry or registrar purpose there, I think we're going to find that maybe - maybe there is for H, but for all of the others, those are completely third party interests and so when we're talking about B1 and B2, you have to be maintaining that somehow this is an ICANN purpose to enable identifying the registered name holder for somebody else and that's clearly not an ICANN purpose.

When you're registering a domain name, ICANN does not say to you, "We're going to collect a bunch of personal contact information about you so that anybody in the world can get it." That's not part of its mission, that is not related to the stability, security of the DNS. If you're saying that we're

collecting this information so that we can contact you about problems with DNS, yes, that's an ICANN purpose. So we still believe very strongly that B1 and B2 really don't belong here and I'll leave it to Colin to make her point about G. I think she's going to address that.

Collin Kurre: (Unintelligible).

David Plumb: Yes. So. I'm conscious of time. I know that there's more hands up, I think it is about the time to take a lunch break. I just want to give it a few more minutes, one more minute before lunch break to say where we are. Right? Where are we? We did a nice job on C and D, combining and making something that's good enough to go to the next stake. Okay. And on this one, which is really a tough nut to get to all of them, we are very close to being able to say let's merge (unintelligible) so that we are being clear about why we're either contacting (unintelligible). So that's probably going to mean some kind of either getting rid of B1, B2, somehow (unintelligible). That's going to be our task after lunch (unintelligible) have something that is so critical to say before we go to lunch, you can say it now, but I think it's like really like hot and little steno burners underneath it keeping it warm for us, keeping it warm for us, but if there's something critical to improve that little like mini-summary, so that we can go to lunch and have clarity what we're going to do after (unintelligible).

(Ashley): I'm sorry, I think - (Ashley), with the GAC. I think this has been stated before. Perhaps it was by Alan G, but I think, you know, one thing that either, you know, we address now or later is again, I think, kind of a gating question, for lack of a better term, is whether or not we think enabling is within ICANN's purpose, at least within ICANN's - it's covered in their mission and I think we have a contingent here that strongly believes it does and there's a contingent here that strongly believes it doesn't and I find that if we get ourselves in a situation where people are whole, like whole cloth trying to get rid of H, I, J, K and L, we're kind of at a point that we're not being productive and I just don't know how best to get past that hurdle.

David Plumb: So just to be clear, when I say our job after lunch, figure a way to merge, bring together B1 and B2 and then specific reasons, the why, which are down in - does that fit into what you're saying? Like we need to have that conversation? Yes? So other things that have to be said right before lunch?

Gina Bartlett: Alan W.

David Plumb: You guys have your - that's still up, Alan?

Gina Bartlett: So, but I - no. You're - Dave, we're over here on this side of next in the queue and they still have their cards up. (Alison), Alan W, Benedict and Lindsay.

David Plumb: Alan W, sorry. Yes. (Unintelligible).

Gina Bartlett: Dave, they were ahead...

Alan Woods: Okay, so Alan Woods here, I do think this is an important thing that we need to consider because we're having this conversation. It's been said by Stephanie, it's been said by Milton as well, but you know, there is a tendency that for some reason, people think that we need to create these purposes. I don't know, is it an attempt that they think that they would be ultimately stronger, that people would have access because we're creating this purpose out of nowhere when in reality, what we should be looking at is these are probably stronger to be stated as legitimate interests because we don't have to be as prescriptive in our thought process. So we have to think what are the basic minimum purposes that we are collecting or ICANN are collecting or processing this data and that let's cut out this concept of, you know, let's say oh, cybercrime, the prevention of abuse. These are all legitimate accesses that could potentially be done on an individual basis. We don't need to spend hours and days getting to this conversation level. All we need to do is focus on what are those minimum purposes and later on, and that's why it's tacked on the end of the charter, because at that time, you can say, "Oh and by the

way, of course you need to consider access to those purposes or to those parties that have a legitimate purpose to access that data and...

David Plumb: (Unintelligible).

Alan Woods: Legitimate interest, sorry. Good Lord, not getting it wrong there. So, I just wanted people to be mindful of that, that we do not need to strong arm in purposes, because it does not make it stronger for you, it makes it harder to come up with this at the beginning, is the way I would look at that.

David Plumb: Okay, so one ought - that is one way of viewing of this, right, is that those legitimate interests that are guiding the purpose of ICANN, the purpose statement or not, got to think about that. Okay, other things before we go to lunch? Sorry, you guys have your things up? No? Good? Okay. Stephanie and then let's...

Stephanie Perrin: Thanks very much, Stephanie for the record and I'm following up actually on what (Ashley) was saying. This is why skipping the step where we determine who's accountable for what and who's the controller and who's the processor is missing a critical step, because if you are going to list all of these peace, order and good government aspects as purposes of ICANN's processing, then they have to take accountability for it and they have to have processing actions. That means that release of data for these purposes is their accountability and they're not doing that. They have delegated this to the contracted parties, through the WHOIS and more or less absolved themselves of the accountability for it. So while it is legitimate, in terms of an interest, we all want no cybercrime and we all want no trademark infringement, that's not ICANN's job and it's not the purposes of their processing. Their job is not to get in the way of it but the actual processing and disclosure comes at another level in the hierarchy. Thanks.

David Plumb: Okay.

Gina Bartlett: So, I think that we're trying to go to lunch. Sorry, this is Gina. I'm sorry. I'm trying to go to lunch, but I do have Hadia, Mark and maybe Ashley is going to decide whether she can go to lunch or if she - Hadia, thanks for waiting.

Hadia Elminiawi: Hadia Elminiawi, ALAC. So I just want to read ICANN's bylaws Section 4.6, that actually say that ICANN is committed to ensuring that it will adequately address issues of competition, consumer protection, security, stability and resiliency, malicious abuse and rights protection. So I think that the pur - the reasons listed there do fall under ICANN's purposes as defined by its mission and bylaws. And that other thing that I want to point out, that the European Data Protection Board letter to ICANN on the 5th of July does actually acknowledge these purposes and does acknowledge that ICANN's mandate is not only - goes beyond the technical functions of mapping (nines) to numbers and actually - and insuring the security and stability from a technical point of view.

David Plumb: Yes. Okay. So let's do what was on Gina's list and then we're just going to have to exercise some authority and (unintelligible). Who is...

Gina Bartlett: Mark.

Mark Svancarek: Mark for the record. Relative to some previous interventions, I would just ask that we remember that we do have the authority to create policy and we are not necessarily bound by the structures of the past, so today ICANN has no contractual relationship with the data subject. That could conceivably change. Today, everybody gets anonymous access to the full data set. You know, in a future meeting, we could talk about a way to control the access to those things so we are not necessarily bound by these existing structures and we shouldn't - we shouldn't limit our - just - we should leave our minds, you know, in the back of our minds open to the idea that we are not bound by them and think about that when we are crafting the language.

David Plumb: Right. Okay. We're going to go to lunch now, folks. We're going to take (unintelligible) I'm not sure what lunch is - half hour for lunch. I would encourage people to follow up on the conversations that have been said, Hadia just said if you read the letter, it says certain things, right? Have a conversation amongst each other. If you feel like that's not the case, have a chat about that during lunch and let's move that ball forward, in part because our job after lunch, connecting the dots between this issue of contacting, identifying and then all the stuff that's down below and the other pieces of this puzzle. Okay? So let's do a half hour of lunch. Have a conversation with each other, particularly if you're left really frustrated by that last interaction, you think there's more to say, go find that person and talk about it. Come back here in a half hour.

END