

Adobe Connect:

Amr Elsadr (NCSG)
Diane Plaut (IPC)
Emily Taylor (RrSG)
Gina Bartlett (CBI)
Hadia Elminiawi (ALAC)
Kristina Rosette (RySG)
Kurt Pritz (Chair)
Margie Milam (BC)
Rafik Dammak (GNSO Council Liaison)
Rahul Gosain (GAC Alternate)
Thomas Rickert (ISPCP)

On Audio Only:

None

Guests:

Gina Bartlett (CBI)

Apologies:

Kavouss Arasteh (GAC)

Audio Cast (FOR ALTERNATES AND OBSERVERS)

Peak: 1 joined

View Only Adobe Connect:

10 joined

Staff:

Berry Cobb
Caitlin Tubergen
Marika Konings
Andrea Glandon

AC Chat:

Amr Elsadr (NCSG): (10/5/2018 07:55) Hi folks. Happy Friday to everyone.

Amr Elsadr (NCSG): (07:58) I see apologies and alternates in the agenda pod that are not listed as participants in this small team on the google doc. Thought that only Hadia and myself might be on this call?

Andrea Glandon: (07:58) @Amr, that is correct those were the only names who signed up, but others may join and I wanted to make sure apologies for this date were listed, just in case.

Andrea Glandon: (07:59) @Amr, these are just general apologies that cover today's date.

Amr Elsadr (NCSG): (08:00) Got it. Sounds good. Glad to see that Margie has also joined. Was surprised that there didn't seem to be much interest in this small team shown on the google doc.

Margie Milam (BC): (08:04) cant hear

Margie Milam (BC): (08:05) Hadia

Amr Elsadr (NCSG): (08:05) Audio is loud, but distorted.
Margie Milam (BC): (08:05) too muffled
Kristina Rosette (RySG): (08:05) can't hear you clearly; volume is fine
Andrea Glandon: (08:05) Hadia, we can call out to you
Hadia Elminiawi - ALAC: (08:06) +20100300867
Andrea Glandon: (08:06) okay will call out to you now
Hadia Elminiawi - ALAC: (08:06) ok thanks kurt
Hadia Elminiawi - ALAC: (08:07) hi Gina
Amr Elsadr (NCSG): (08:07) Hey..., Hadia and I are on this call despite it being our weekend. ;-)
Hadia Elminiawi - ALAC: (08:07) yes Amr
Margie Milam (BC): (08:07) you guys are amazing!
Hadia Elminiawi - ALAC: (08:07) margie :)
Thomas Rickert (ISPCP): (08:08) That's what I call dedication. Great work Amr and Hadia!
Hadia Elminiawi - ALAC: (08:08) Hi thomas
Kristina Rosette (RySG): (08:08) Quick point of order: I think the chart is missing an important GDPR citation, namely, that Art. 4(1) defines personal data to include location data.
Caitlin Tubergen: (08:09) Thanks, Kristina -- we can update that.
Kurt Pritz: (08:09) Thanks Kristina
Caitlin Tubergen: (08:09) In the meantime, we can post in the Notes Pod or in the chat.
Kurt Pritz: (08:09) Thanks Caitlin
Margie Milam (BC): (08:10) really hard to hear Hadia
Margie Milam (BC): (08:10) muffled
Amr Elsadr (NCSG): (08:10) I believe GDPR refers to the data subject as someone located in the EU, not necessarily a resident. Referring to #2 on Hadia's list.
Amr Elsadr (NCSG): (08:11) I guess this is covered by #1, so ignore my last comment.
Diane Plaut (IPC): (08:11) As well as those for which the controller is "monitoring the behavior" of the individual
Caitlin Tubergen: (08:11) Per Kristina's request, here is Art.4(1): (1) 'personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;
Hadia Elminiawi - ALAC: (08:11) @amr yes anyone residing in the EU is certainly a data subject
Kristina Rosette (RySG): (08:12) Thanks, Caitlin.
Hadia Elminiawi - ALAC: (08:12) i shall try to hear the others comments first
Caitlin Tubergen: (08:14) @Margie - your sound is a bit faint.
Amr Elsadr (NCSG): (08:27) @Kristina: +1
Emily Taylor (RrSG): (08:27) Great points, thank you @Kristina
Thomas Rickert (ISPCP): (08:28) @Diane - well stated
Amr Elsadr (NCSG): (08:28) I can think of at least one CP in which the PDP WG recommendations is causing an implementation headache. Would be good to avoid that here.
Diane Plaut (IPC): (08:29) Thank you, ditto: thank you for setting up the framework for the discussion
Hadia Elminiawi - ALAC: (08:29) ok lets do that
Kristina Rosette (RySG): (08:29) And I support thomas' framework.
Hadia Elminiawi - ALAC: (08:29) hear from those who haven't spoken first
Kristina Rosette (RySG): (08:29) oops. sorry.

Diane Plaut (IPC): (08:30) Great points Kristine which support the practical application of a unitary legal application model

Diane Plaut (IPC): (08:30) Kristina

Kristina Rosette (RySG): (08:31) Hi Diane, thank you, but that wasn't what I said.

Diane Plaut (IPC): (08:32) if you can clarify then, that would be appreciated

Caitlin Tubergen: (08:32) @Hadia - you are very hard to understand. Could you please type your thoughts into the chat?

Emily Taylor (RrSG): (08:32) Hadia - it is really hard to hear you

Emily Taylor (RrSG): (08:32) The mic is very distorted

Hadia Elminiawi - ALAC: (08:32) I'll try type in

Caitlin Tubergen: (08:33) Thank you, Hadia!

Caitlin Tubergen: (08:33) I'll capture your AC chat in the notes.

Thomas Rickert (ISPCP): (08:33) I think Hadia was elaborating on the point of registrants' rights, which was an excellent addition to the points that were made in favour of a unified global system

Hadia Elminiawi - ALAC: (08:34) Yes Thomas I am for a unified model

Kristina Rosette (RySG): (08:36) I think we're getting waaaaay ahead of ourselves here.

Emily Taylor (RrSG): (08:36) Yes

Hadia Elminiawi - ALAC: (08:36) I'll type later in an email what i was saying because i cannot type and listen carefully

Gina Bartlett - CBI: (08:37) So sorry to miss what you said. The notes caught some of it, but not all.

Kristina Rosette (RySG): (08:39) yes

Hadia Elminiawi - ALAC: (08:42) I am not for the differentiation based on the physical location

Diane Plaut (IPC): (08:47) Great points and explanation Emily. I too very much appreciate the present ongoing development of countries globally to bring their privacy laws forward to a level which makes them viable global partners and with GDPR being the baseline and that is why at this time the unitary application makes sense commercially and legally.

Amr Elsadr (NCSG): (08:49) Might be a non-issue to most, but do we want to encourage prospective RNHs to choose EU-based registrars over others, in order to be subject to GDPR protection?

Hadia Elminiawi - ALAC: (08:50) + 1 Amr

Emily Taylor (RrSG): (08:50) @Amr - excellent point.

Emily Taylor (RrSG): (08:51) It's another example of why these technologies need world-wide laws :)

Amr Elsadr (NCSG): (08:51) I would think so.

Kristina Rosette (RySG): (08:51) Could make similar point w/r/t gTLDs (although to a lesser extent).

Kristina Rosette (RySG): (08:51) So, to be clear, totally agree with your point, Amr.

Amr Elsadr (NCSG): (08:52) Absolutely, Kristina..., on the gTLDs point.

Thomas Rickert (ISPCP): (08:55) We have rough consensus on the call to move forward with a unified approach. All the arguments (pros and cons) are on the record. Don't you think we can move on?

Amr Elsadr (NCSG): (08:55) @Thomas: +1

Rahul Gosain (GAC Alternate): (08:57) Does not look like consensus to me @Thomas

Thomas Rickert (ISPCP): (08:57) Rough consensus, Rahul according to our charter.

Hadia Elminiawi - ALAC: (08:57) In the current era of the internet it is becoming impossible for one country to solely regulate artificial intelligence is a prime example - global policies is an avoidable path

Kristina Rosette (RySG): (08:58) If we have rough consensus (and I think we're heading in that direction), it's to answer h1 as "No, Contracted Parties should not be required to differentiate between registrants on a geographic basis."

Rahul Gosain (GAC Alternate): (08:58) There should be a recognition that there are several equally valid arguments against

Margie Milam (BC): (08:59) I'd be cautious about calling this any type of consensus because this isn't the full EPDP

Thomas Rickert (ISPCP): (08:59) @Rahul, I am ok with recognizing other arguments. I would not make value judgements on the validity in our report.

Kristina Rosette (RySG): (08:59) @Margie: you're absolutely right about scope of consensus

Margie Milam (BC): (08:59) this exercise is to bring back to the larger group some recommendations

Hadia Elminiawi - ALAC: (08:59) The future is going in the direction of global policies and not the opposite for sure

Rahul Gosain (GAC Alternate): (08:59) Besides I think Consensus as defined in the charter I assume should apply to the whole EPDP and not just a small group

Thomas Rickert (ISPCP): (09:00) @Margie. I agree, but I guess our group should report back a consensus position to the plenary EPDP

Kristina Rosette (RySG): (09:00) excellent analogy, Emily.

Rahul Gosain (GAC Alternate): (09:00) So let's not try and read too much into @Thomas's comment about consensus

Rahul Gosain (GAC Alternate): (09:00) I would be cautious about that

Thomas Rickert (ISPCP): (09:02) Rahul, we will have to report to the plenary what our group's findings are. So far, it is support from all but Margie and yourself. I am not wedded to using the term "rough consensus", so we can call it what we want, but that's where we are.

Thomas Rickert (ISPCP): (09:02) I just think we should not dwell on this question much longer as we seem to have tabled all arguments.

Rahul Gosain (GAC Alternate): (09:03) Cost should not be the overriding consideration

Rahul Gosain (GAC Alternate): (09:04) To scope out the conversation

Rahul Gosain (GAC Alternate): (09:04) and all the arguments for and against

Rahul Gosain (GAC Alternate): (09:04) That's all

Kristina Rosette (RySG): (09:05) +1 Amr. It seems likely that the impact of implementation costs (to the extent carried over to wholesale and retail domain name prices) will be borne by individual RNHs and small businesses.

Amr Elsadr (NCSG): (09:08) Yes, and the point I was trying to make is that because of GDPR, there are costs that did not exist before, but are now being borne by certain third-parties who are trying to shift them on to ICANN, its contracted parties, and ultimately RNHs. This needs to be justified IMO, making cost a very valid argument.

Kristina Rosette (RySG): (09:10) thanks.

Amr Elsadr (NCSG): (09:11) Agree with Thomas.

Amr Elsadr (NCSG): (09:12) We might even be able to end this call a little early!! :-)

Amr Elsadr (NCSG): (09:13) This is not a formal consensus call at all, and shouldn't be understood to imply this. Just a snapshot of the level of consensus on the small team to the benefit of the broader EPDP Team. No need to read too much into it imo.

Amr Elsadr (NCSG): (09:15) @Rahul: There are also RNHs out there who are decent people, you know. ;-)

Rahul Gosain (GAC Alternate): (09:16) I would say that significant opposition is more like it

Rahul Gosain (GAC Alternate): (09:16) I agree @Amr but we need to make it easier to make it a safe place for them

Rahul Gosain (GAC Alternate): (09:17) I guess as per Milton I belong to the Surveillance caucus

Rahul Gosain (GAC Alternate): (09:17) So that's where my arguments are coming from

Hadia Elminiawi - ALAC: (09:19) @rahul we are trying hard through the other parts of the temp Spec to make sure that those who are concerned with the network security, law enforcement agencies, IP agencies and others can carry out their work

Hadia Elminiawi - ALAC: (09:19) +1 kristina
Thomas Rickert (ISPCP): (09:19) +1 Kristina
Kristina Rosette (RySG): (09:20) thanks, Emily. I meant to touch on the cost considerations.
Hadia Elminiawi - ALAC: (09:20) why would we open the door for different levels of protection?
Rahul Gosain (GAC Alternate): (09:21) So we have more support!
Hadia Elminiawi - ALAC: (09:23) We should also consider here the impact of the differentiation on the businesses and the industry
Amr Elsadr (NCSG): (09:23) Agree, Hadia.
Rahul Gosain (GAC Alternate): (09:24) +1 Margie
Rahul Gosain (GAC Alternate): (09:24) Thats exactly what I said earlier
Emily Taylor (RrSG): (09:24) @Diane, @Rahul, @Margie - fully respect your points re consensus. I'm wondering whether maybe this small group has gone as far as it can on these issues, and maybe we report back to the big group that we were divided along familiar lines.
Kristina Rosette (RySG): (09:25) I didn't say that everyone agreed on the "not required" point. I said rough consensus
Rahul Gosain (GAC Alternate): (09:25) Along equally valid familiar lines
Kristina Rosette (RySG): (09:25) to the extent you can use the consensus characterizations in these smaller groups.
Margie Milam (BC): (09:25) Yes -- I agree we probably have enough to move it along to the big group
Emily Taylor (RrSG): (09:26) Yes, Rahul, there was no value judgement intended in my language - sorry if that was not clear !
Rahul Gosain (GAC Alternate): (09:26) Thnaks Emily - no offense taken
Rahul Gosain (GAC Alternate): (09:27) +1 Diane
Rahul Gosain (GAC Alternate): (09:27) I agree that saying its permitted is not a good idea
Rahul Gosain (GAC Alternate): (09:27) Its going to make it legally challenging
Margie Milam (BC): (09:30) agree with Kristina
Margie Milam (BC): (09:30) that is correct
Amr Elsadr (NCSG): (09:30) Also agree with Kristina.
Thomas Rickert (ISPCP): (09:30) Location of the registrant is not the only dedicing factor, yes, Kristina
Rahul Gosain (GAC Alternate): (09:31) I have had my hand raised for ages
Margie Milam (BC): (09:31) just track GDPR language
Rahul Gosain (GAC Alternate): (09:31) and am waitiing to given the chance to speak to that
Andrea Glandon: (09:31) @Rahul, your hand is not showing raised.
Rahul Gosain (GAC Alternate): (09:31) @Kurt- I don't know who is managing the queue
Rahul Gosain (GAC Alternate): (09:31) OK looks like it goot put down accidentally
Rahul Gosain (GAC Alternate): (09:32) Now it is I hope
Kurt Pritz: (09:32) Rahul - I just saw your name come up now
Andrea Glandon: (09:32) @Rahul, yes it is up now. Thank you!
Kristina Rosette (RySG): (09:32) Thomas is correct. putting "required" into h2 would totally change the answer. "required" is not in h2.
Amr Elsadr (NCSG): (09:34) @Rahul: In principle, local/applicable law always trumps ICANN's contractual obligations.
Kristina Rosette (RySG): (09:35) +1 Amr
Thomas Rickert (ISPCP): (09:35) So Rahul, would the answer be "as many silutions as we have laws around the globe"?
Rahul Gosain (GAC Alternate): (09:36) @thomas- certainly more nuanced applications of solution- yes!
Rahul Gosain (GAC Alternate): (09:36) Not one size fits all- ham handed application
Thomas Rickert (ISPCP): (09:36) ICANN is all about "one world - one internet"

Amr Elsadr (NCSG): (09:37) @Thomas: :-)

Hadia Elminiawi - ALAC: (09:37) maybe the staff could draft a few lines which we can all contribute too through google docs and then present to the larger group

Kristina Rosette (RySG): (09:37) Whoa. Just because one person suggests something, that doesn't make it a recommendation.

Thomas Rickert (ISPCP): (09:38) We have conflict of law provisions in the contracts and waiver procedures, but we have to work with one approach as the baseline. it has always been that way. It does not work any other way.

Hadia Elminiawi - ALAC: (09:38) apologies for the typos

Kristina Rosette (RySG): (09:38) I'm OK with saying it's a suggestion, but don't support saying it's a recommendation.

Rahul Gosain (GAC Alternate): (09:39) Try to craft policy that is responsive

Rahul Gosain (GAC Alternate): (09:39) Try to move forward

Hadia Elminiawi - ALAC: (09:40) I shall send the email after the call

Hadia Elminiawi - ALAC: (09:41) thank you all bye

Amr Elsadr (NCSG): (09:41) Thanks all. Bye.

Kristina Rosette (RySG): (09:41) bye all.

Rahul Gosain (GAC Alternate): (09:41) Thanks all! Thanks everyone! Thanks Kurt Bye All