

**Adobe Connect: 25**

Alan Greenberg (ALAC)  
Alan Woods(RYSG)  
Amr Elsadr (NCSG)  
Ashley Heineman (GAC)  
Ben Butler (SSAC)  
Benedict Addis (SSAC)  
Brian King (IPC Alternate)  
Diane Plaut (IPC)  
Georgios Tselentis (GAC)  
Hadia Elminiawi (ALAC)  
Julf Helsingius (NCSG)  
Kristina Rosette (RySG)

Kurt Pritz (Chair)  
Leon Sanchez ICANN Board Liaison)  
Lindsay Hamilton-Reid (RrSG Alternate)  
Marc Anderson (RySG)  
Margie Milam (BC)  
Mark Svancarek (BC)  
Matt Serlin (RrSG)  
Milton Mueller (NCSG)  
Rafik Dammak (GNSO Council Liaison)  
Rahul Gosain (GAC Alternate)  
Stephanie Perrin (NCSG)  
Thomas Rickert (ISPCP)  
Volker Greimann (RrSG Alternate)

**Guests:**

None

**On Audio Only:**

None

**Apologies:**

Kavouss Arasteh (GAC)  
James Bladel (RrSG)  
Emily Taylor (RrSG)  
Ayden Férdeline (NCSG)  
Farzaneh Badii (NCSG)  
Alex Deacon (IPC)

**Audio Cast (FOR ALTERNATES AND OBSERVERS)**

**Peak:** 8 joined

**View Only Adobe Connect:**

29 joined

**Staff:**

Berry Cobb  
Caitlin Tubergen  
Daniel Halloran (ICANN Org Liaison – Legal)  
Marika Konings  
Trang Nguyen (ICANN Org Liaison – GDD)  
Terri Agnew  
Andrea Glandon

## AC Chat:

Andrea Glandon: (11/13/2018 06:59) Welcome to the EPDP Team Call #25 held on Tuesday, 13 November 2018 at 14:00 UTC.

Andrea Glandon: (07:00) Wiki Agenda Page: <https://community.icann.org/x/VgPVBQ>

Rahul Gosain: (07:41) Hi Everyone

Rahul Gosain: (07:41) Hi Kurt

Hadia Elminiawi - (ALAC): (07:44) Hi all

Hadia Elminiawi - (ALAC): (07:44) can we make a sound test

Andrea Glandon: (07:45) Yes, please do Hadia

Rahul Gosain: (07:45) Hi!

Hadia Elminiawi - (ALAC): (07:45) I am on the AC audio can we make a test

Hadia Elminiawi - (ALAC): (07:46) just a second i need to connect my mic

Rahul Gosain (GAC - Alt): (07:46) Thank You!

Andrea Glandon: (07:46) You're welcome!

Georgios Tselentis (GAC): (07:55) Hi everybody. I wish to test my audio too

Rahul Gosain: (07:56) Hi that was Georgios

Brian King (IPC): (08:00) Good day, all. Filling in for Alex Deacon today. Looking forward to a productive call.

Milton Mueller (NCSG): (08:00) ha

Amr Elsadr (NCSG): (08:00) Hi all.

Mark Svancarek (BC): (08:00) Milton, ye of little faith... oh, wait, it's EPDP

Milton Mueller (NCSG): (08:00) ;-)

Milton Mueller (NCSG): (08:00) it's iCANN...

Diane Plaut (IPC): (08:02) Terri - is the call started I do not hear anything - may not have audio

Andrea Glandon: (08:02) @Diane, the call has started. Let ms know if you would like a dial out

Terri Agnew: (08:02) HI Daine, we have started, please let me know if a dial out on the telephone is needed

Diane Plaut (IPC): (08:03) will sign back in and see if works

Thomas Rickert (ISPCP): (08:03) Hi all!

Diane Plaut: (08:04) On - thanks!

Thomas Rickert (ISPCP): (08:04) sounds great Kurt!

Lindsay Hamilton-Reid (RrSG- Alt): (08:04) Hi all

Hadia Elminiawi - (ALAC): (08:04) hello all

Marika Konings: (08:05) The latest version of the draft Initial Report can be found here: [https://urldefense.proofpoint.com/v2/url?u=https-3A\\_drive.google.com\\_file\\_d\\_1F-5FfQ5bEHAS543TdLOmDKxXpcJFF1qQy-5F\\_view&d=DwlFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=k7uKdjSb7\\_ZltyVqrCYHo\\_rKms9SFxImbYEJqG-y9I&m=rGOM-W4Fd\\_v8qEgf32HmdX94MK0Ss6iU9GOilvYxVTk&s=n-8Q4VK9qUHKPGQRKAzBpVXuWsZZWg\\_ED5bxIFDoQoY&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_drive.google.com_file_d_1F-5FfQ5bEHAS543TdLOmDKxXpcJFF1qQy-5F_view&d=DwlFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=k7uKdjSb7_ZltyVqrCYHo_rKms9SFxImbYEJqG-y9I&m=rGOM-W4Fd_v8qEgf32HmdX94MK0Ss6iU9GOilvYxVTk&s=n-8Q4VK9qUHKPGQRKAzBpVXuWsZZWg_ED5bxIFDoQoY&e=)

Marc Anderson (RySG): (08:06) is there a clean version of the latest, or just the redline version? I'd like to request a clean version if it isn't already available.

Marika Konings: (08:06) We've only posted a redline, but I can post a clean version after this meeting.

Milton Mueller (NCSG): (08:06) ;- ) Kurt, you enjoy readin gbooks?

Milton Mueller (NCSG): (08:10) Alan, Amr's comment is actually based on a reading of GDPR. Is yours?

Volker Greimann - RrSG Alt: (08:11) That is nonsense

Amr Elsadr (NCSG): (08:11) @Alan: My point is that the distinction is not Legal vs. Natural Persons in GDPR in GDPR. It's the personal data concerning Legal Persons and Natural Persons that referred to in GDPR.

Milton Mueller (NCSG): (08:11) I think you are not understanding Amr's point, Alan

Margie Milam (BC): (08:11) I'd like to think about it & answer next call

Alan Woods(RYSG): (08:11) This seems argument for argument sake. The Regulation applies to the the data not the person. +1 to Amr

Thomas Rickert (ISPCP): (08:11) Alan G, I think your recollection is not ccurate.

Amr Elsadr (NCSG): (08:11) Recital 14: The protection afforded by this Regulation should apply to natural persons, whatever their nationality or place of residence, in relation to the processing of their personal data. This Regulation does not cover the processing of personal data which concerns legal persons and in particular undertakings established as legal persons, including the name and the form of the legal person and the contact details of the legal person.

Volker Greimann - RrSG Alt: (08:11) it is irrelevant for the processor or controller if the legal person made an error

Volker Greimann - RrSG Alt: (08:12) the only question is: are you processing or controlling the processing of personal data within the framework of the GDPR or are you not. if you are not, you are liable

Amr Elsadr (NCSG): (08:13) Also, from the EDPB letter: The GDPR does not apply to the processing of personal data which concerns legal persons and in particular undertakings established as legal persons, including the name and the form of the legal person and the contact details of the legal person. While the contact details of a legal person are outside the scope of the GDPR, the contact details concerning natural persons are within the scope of the GDPR, as well as any other information relating to an identified or identifiable natural person.

Amr Elsadr (NCSG): (08:13) Sure. Thanks Kurt and Margie.

Alan Greenberg (ALAC): (08:13) It's rather late in this game to be introducing such a substantive change.

Terri Agnew: (08:13) Finding the line

Stephanie Perrin: (08:13) My apologies for being late.

Milton Mueller (NCSG): (08:13) Alan, it's NOT a substantive change

Julf Helsingius (NCSG): (08:14) Hadia, your mic is great now! Thanks!

Lindsay Hamilton-Reid (RrSG- Alt): (08:14) We have not made such a distinction before between natural and legal and we should not do so here.

Amr Elsadr (NCSG): (08:14) @Alan: I didn't think the change is that substantive. It's merely a clarification of what is actually within scope of GDPR.

Thomas Rickert (ISPCP): (08:14) Hadia - it's almost hifi :-)

Diane Plaut (IPC): (08:16) Agreed Alan, we would be making a very narrow legal analysis which is too narrow in line with the charter questions. The distinction between natural and legal and then the relevant personal data elements are evaluated. The legal person has the ability to provide data elements prescribed in line with internal measures in place which our outside the scope of our analysis. I am pleased to provide further legal support on this issue.

Mark Svancarek (BC): (08:17) I think we can have resolution on this by THU

Mark Svancarek (BC): (08:17) Thank you for your patience

Brian King (IPC): (08:17) Thank you Amr for the suggestion

Mark Svancarek (BC): (08:18) Yes, it seems an interesting suggestion. But we must review.

Amr Elsadr (NCSG): (08:18) Thanks, Brian.

Marika Konings: (08:19) you can also zoom in by clicking the plus sign

Amr Elsadr (NCSG): (08:19) btw..., folks can also download docs on display in the AC room, directly from the AC room. Use the dropdown menu in the top right corner of the doc on display.

Thomas Rickert (ISPCP): (08:19) Hi Kurt, not sure it is the majority that wants org field published.

Lindsay Hamilton-Reid (RrSG- Alt): (08:20) Agreed Thomas

Georgios Tselentis (GAC): (08:21) @ Amr's suggestion The distinction between legal vs. natural person and personal vs. non personal information of a legal entity refer to different practical implementations

Brian King (IPC): (08:21) +1 Ashley

Brian King (IPC): (08:22) That's more accurate

Diane Plaut (IPC): (08:22) +1 Ashley

Kristina Rosette (RySG): (08:22) This change is fine, but in some cases, we may need some time to consider the proposed change.

Thomas Rickert (ISPCP): (08:23) Please add ISPCP to the list of those having an issue with the publication of the org field

Mark Svancarek (BC): (08:23) We agreed in BCN that postal code should be redacted.

Julf Helsingius (NCSG): (08:23) Postal codes here in NL pretty much nails down the house

Mark Svancarek (BC): (08:23) FWIW, our original request was that PC and city not \*both\* be redacted.

Marika Konings: (08:23) Postal code is referenced there as it was discussed, but it is not recommended as not redacted.

Matt Serlin (RrSG): (08:24) Ashley's change seems fine to me

Marika Konings: (08:24) Third bullet point

Marika Konings: (08:24) Please note that that change has already been made

Matt Serlin (RrSG): (08:24) it says lack of consistency now, no?

Milton Mueller (NCSG): (08:24) the version I am seeing already says "lack of consistency," Ashley

Milton Mueller (NCSG): (08:25) :-)

Matt Serlin (RrSG): (08:25) lol...hard to keep the version straight!

Marika Konings: (08:25) Staff made some additional updates based on the input received in the google doc, including this one :-)

Ashley Heineman (GAC): (08:25) I stopped drinking coffee...

Amr Elsadr (NCSG): (08:25) I don't have the courage to do that, Ashley!! :-)

Alan Woods(RYSG): (08:26) @Marika ... where is says "add others as appropriate" ... feel free to add RYSG on there too.

Marika Konings: (08:26) Thanks, Alan. Will do.

Thomas Rickert (ISPCP): (08:26) correct

Stephanie Perrin (NCSG): (08:27) PII is not a valid term, correct Mark. You have good lawyers.

Alan Woods(RYSG): (08:27) 'personal data' means any information relating to an identified or identifiable natural person ('data subject') so yes ...

Volker Greimann - RrSG Alt: (08:28) (nods to Marks lawyers!)

Stephanie Perrin (NCSG): (08:28) The GDPR goes on to discuss anonymization and identifiability. Forget the section numbers

Diane Plaut (IPC): (08:28) Agreed, Mark

Volker Greimann - RrSG Alt: (08:29) No matter what the field, it may contain personal data.

Marika Konings: (08:29) If others want to be added to either of the yellow highlighted fields, please let staff know (and be specific which one you would like to get added to).

Thomas Rickert (ISPCP): (08:29) We know that a lot of data in the org field is identical to the registrant field. So if we redact the registrant field, how can we not redact the org field?

Marika Konings: (08:29) BC reps, can you confirm for the second yellow highlight (page 2) that the BC should be added there?

Margie Milam (BC): (08:30) agree with Benedict-- we should include that reference in this text

Margie Milam (BC): (08:30) systemic risk about NOT having the data available

Alan Woods(RYSG): (08:31) data is captured, just not published.

Amr Elsadr (NCSG): (08:31) Lost audio!!

Benedict Addis - SSAC: (08:32) You're back Milton!

Andrea Glandon: (08:32) @Amr, would you like a dial out?  
Amr Elsadr (NCSG): (08:32) @Andrea: Yeah, I think that'd be a good idea.  
Andrea Glandon: (08:33) Great, will do so now, Amr  
Amr Elsadr (NCSG): (08:33) Thanks, Andrea.  
Margie Milam (BC): (08:34) Yes- I can do that  
Kristina Rosette (RySG): (08:35) stepping away from computer for a couple of minutes (have phone & am dialed in, though)  
Milton Mueller (NCSG): (08:35) Hadia: one of the good changes in the current draft is that a long quotation from the EDPB about legal-natural was included.  
Milton Mueller (NCSG): (08:36) So we are following the law. And Amr's proposed minor change was merely extending that  
Milton Mueller (NCSG): (08:37) The point Alan was that at one point the org name would allow individuals to be identified easily  
Lindsay Hamilton-Reid (RrSG- Alt): (08:37) I disagree Alan, it's not as black and white.  
Amr Elsadr (NCSG): (08:37) @Milton, @Lindsay: +1  
Milton Mueller (NCSG): (08:37) We are really getting into argument for argument's sake now :-(  
Lindsay Hamilton-Reid (RrSG- Alt): (08:38) I hope no-one is going to mention over application of GDPR now.  
Lindsay Hamilton-Reid (RrSG- Alt): (08:39) +1 Alan  
Amr Elsadr (NCSG): (08:39) @Alan W: Exactly!! Thank you!!  
Lindsay Hamilton-Reid (RrSG- Alt): (08:40) Alan W I mean.  
Milton Mueller (NCSG): (08:40) thank you for bringing us back to the temp spec,, Alan  
Amr Elsadr (NCSG): (08:41) I thought that the citations I provided on this would help clarify the legal basis for the request to redact this field. And this is not a new issue. It was discussed at our F2F in Barcelona.  
Hadia Elminiawi - (ALAC): (08:42) The audio is a little bit low - I am having trouble hearing the speakers - is there a way by which the volume could be made raised?  
Alan Woods(RYSG): (08:42) sorry that the law is inconvenient.  
Margie Milam (BC): (08:43) BC agrees with IPC on this  
Thomas Rickert (ISPCP): (08:43) Brian - you are asking for the publication of the \_real\_ e-mail address or anonymized?  
Lindsay Hamilton-Reid (RrSG- Alt): (08:43) The aim of the webform is to contact the registrant though. If we are required by law, court order or some other judicial process to provide the information, then we would ordinarily do so  
Lindsay Hamilton-Reid (RrSG- Alt): (08:44) The email is personal data so it should be redacted.  
Brian King (IPC): (08:44) To be clear, not trying to sell this group on our argument today. Just noting our point for reflection in the initial report.  
Hadia Elminiawi - (ALAC): (08:44) @Lindsay - anonymized email address  
Thomas Rickert (ISPCP): (08:45) T'hanks, Brian. Does the IPC think it is compliant with GDPR to publish the real e-mail address?  
Lindsay Hamilton-Reid (RrSG- Alt): (08:45) @Hadia, yes but a webform does the job for the same purpose.  
Thomas Rickert (ISPCP): (08:46) If so, it would be great if you could share the rationale.  
Mark Svancarek (BC): (08:47) Brian made 2 points, i think: (1) web form does no allow evidence of delivery and (2) unless a globally unique identifier is in place - replacing the actual email - it's not possible to demonstrate bad faith or repeated bad activity.  
Brian King (IPC): (08:47) @Thomas the lawyer answer is: "it depends." It could be. Of course more controls would be needed.

Brian King (IPC): (08:48) @Milton that was about 1/4 of the points raised :-)

Thomas Rickert (ISPCP): (08:48) @Brian - haha - I am not surprised they gave that answer :-)

Amr Elsadr (NCSG): (08:48) @Mark: Aren't those arguments valid in the disclosure context (in specific circumstances), not publication?

Lindsay Hamilton-Reid (RrSG- Alt): (08:48) @Mark, why would you need that to prove bad faith? Surely this is just to contact the registrant?

Margie Milam (BC): (08:48) agree with Alan G on this

Brian King (IPC): (08:48) The primary point raised is that "EPDP Team Preliminary Rec #3" is not supported by the IPC, nor BC

Kristina Rosette (RySG): (08:49) I vote that we move on. We have a lot to cover and will lose a key participant (to one of those issues) in less than 45 minutes.

Mark Svancarek (BC): (08:49) I defer to Brian and Margie about the specifics of the resolution process; I believe they have been discussed here, though

Milton Mueller (NCSG): (08:49) Agree with Kristina

Mark Svancarek (BC): (08:49) I'm okay to move on

Lindsay Hamilton-Reid (RrSG- Alt): (08:49) Agreed to move on. Our positions are clear.

Leon Sanchez (ICANN Board Liaison): (08:49) Hello everyone, my apologies for lateness

Georgios Tselentis (GAC): (08:49) +1 Kristina

Matt Serlin (RrSG): (08:49) +1 to Kristina

Alan Woods(RYSG): (08:50) +1 kristina

Volker Greimann - RrSG Alt: (08:50) Great, another disclaimer to add in the registration process that no one will ever read

Matt Serlin (RrSG): (08:50) Every group has the opportunity to submit public comments on the report...no one expects us all to agree on the recommendations put forth at this point

Brian King (IPC): (08:50) +1 Matt

Brian King (IPC): (08:51) Like I said, not trying to sell this idea to the group today

Lindsay Hamilton-Reid (RrSG- Alt): (08:51) Agreed Matt.

Brian King (IPC): (08:51) Just want it noted

Hadia Elminiawi - (ALAC): (08:51) @Kurt I agree with moving on

Alan Woods(RYSG): (08:51) indeed. It has been noted and we can move on.

Alan Greenberg (ALAC): (08:52) ALAC does not support it either.

Marika Konings: (08:53) Alan, could you provide further information on what the ALAC supports / proposes in relation to email communication?

Amr Elsadr (NCSG): (08:53) @Dan Halloran: Happy b-day, btw. :-)

Daniel Halloran (ICANN Org Liaison -Legal): (08:53) @Amr -- Thank you :-)

Alan Greenberg (ALAC): (08:53) Will follow up.

Hadia Elminiawi - (ALAC): (08:54) + Alan G

Hadia Elminiawi - (ALAC): (08:55) ALAC will follow up either by the end of this call or through email

Volker Greimann - RrSG Alt: (08:56) There is an easy way out for ICANN to avoid any form of controllership

Volker Greimann - RrSG Alt: (08:56) Just avoid prescribing data use!

Milton Mueller (NCSG): (08:57) Does ICANN Legal not understand this basic fact, Thomas?

Milton Mueller (NCSG): (08:58) That their status as controller is not up to them to decide?

Milton Mueller (NCSG): (08:58) but is a matter of law?

Margie Milam (BC): (08:58) This is why we have been asking ICANN Org to participate in this group actively - not passively

Milton Mueller (NCSG): (08:58) yeah

Amr Elsadr (NCSG): (08:58) @Margie: +1 (it happens) ;-)

Margie Milam (BC): (08:59) Are we going to see this memorandum or any other memo that is relevant to our work?

Amr Elsadr (NCSG): (08:59) JJ indicated that they're working on a summary of the memo for us!!

Volker Greimann - RrSG Alt: (08:59) @Milton: But they can chose: If they do not want to be a controller, they just need to stop doing everything that makes them a controller.

Volker Greimann - RrSG Alt: (09:00) it is \_that\_ easy!

Diane Plaut (IPC): (09:00) Yes, Mrgie, we have asked for the Memo right away. Yes, Milton, we very clearly stated the deermination is a factual one and hence a legal one

Brian King (IPC): (09:01) While we wait for the memo, I found this high-level info from the EC to be helpful: [https://urldefense.proofpoint.com/v2/url?u=https-3A\\_ec.europa.eu\\_info\\_law\\_law-2Dtopic\\_data-2Dprotection\\_reform\\_rules-2Dbusiness-2Dand-2Dorganisations\\_obligations\\_controller-2Dprocessor\\_what-2Ddata-2Dcontroller-2Dor-2Ddata-2Dprocessor-5Fen&d=DwlFaQ&c=FmY1u3Pjp6wrcrwlI3mSVzgfkbPSS6sJms7xcl4I5cM&r=k7uKdjSb7\\_ZiItyVqrCYHo\\_rKms9SFxImbYEJqG-y9I&m=rGOM-W4Fd\\_v8qEgf32HmdX94MK0Ss6iU9GOilvYxVTK&s=Op6UyGHdRpUwW\\_LHbjEEvVo3GJkHFPnhfsNIJDCnFtc&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_ec.europa.eu_info_law_law-2Dtopic_data-2Dprotection_reform_rules-2Dbusiness-2Dand-2Dorganisations_obligations_controller-2Dprocessor_what-2Ddata-2Dcontroller-2Dor-2Ddata-2Dprocessor-5Fen&d=DwlFaQ&c=FmY1u3Pjp6wrcrwlI3mSVzgfkbPSS6sJms7xcl4I5cM&r=k7uKdjSb7_ZiItyVqrCYHo_rKms9SFxImbYEJqG-y9I&m=rGOM-W4Fd_v8qEgf32HmdX94MK0Ss6iU9GOilvYxVTK&s=Op6UyGHdRpUwW_LHbjEEvVo3GJkHFPnhfsNIJDCnFtc&e=)

Stephanie Perrin (NCSG): (09:01) We requested the legal memo yesterday, Milton, and for greater clarity, I asked in the chat on behalf of the NCSG. Also for the record, I have been asking ICANN to declare its status as Controller, or if co-controller, how, for the past two years.

Margie Milam (BC): (09:02) Stephanie -- yes you have been calling for this for years!

Stephanie Perrin (NCSG): (09:02) It is fundamental to mapping the accountabilities, which is one of the purposes of a DPIA, which I have also for the record been demaning.

Stephanie Perrin (NCSG): (09:02) demanding

Milton Mueller (NCSG): (09:02) Right Stephanie I know, but my question is not whether they ARE a controlled or JC, my question is whether ICANN legal believes that it is up to them whether they want to accept their status as one

Diane Plaut (IPC): (09:03) Absolutely

Brian King (IPC): (09:03) Milton, great point

Volker Greimann - RrSG Alt: (09:03) @Thomas: Name it as what it is: Sabotage!

Alan Woods(RYSG): (09:03) +1 Thomas

Stephanie Perrin (NCSG): (09:03) I understand that Milton, just clarifying a couple of often stated items in the context of this discussion.

Margie Milam (BC): (09:03) +1 Thomas

Milton Mueller (NCSG): (09:04) I think we have to make that judgment and solicit comment on the interim report, Thomas

Brian King (IPC): (09:05) +1 Milton

Stephanie Perrin (NCSG): (09:05) It is not the job of the EDPB to discern for ICANN what its status is. It is up to ICANN to hire a data protection lawyer and figure it out.

Hadia Elminiawi - (ALAC): (09:05) I think the issue is that in the joint controller agreement both controllers determine the purpose and means of the processing of the data - and I think the issue is with the means of processing and not the purposes

Amr Elsadr (NCSG): (09:05) My understanding is that it is within the scope of our work to determine who the data controllers are for identified purposes within the policy development process. If we identify multiple controllers, it goes to reason that JCAs will be required.

Brian King (IPC): (09:06) +1 Amr. We're not playing a game of "who wants to be a data controller?" - it's "who is the data controller?"

Amr Elsadr (NCSG): (09:06) Exactly, Brian!!

Stephanie Perrin (NCSG): (09:07) then when the compliants come in, it is the job of the relevant authority to look at the controllership issues and determine whether they have been appropriately done, and whether the liabilities have been allocated appropriately. The interests of the data subject are important in these decisions, not the liability of the entities.

Lindsay Hamilton-Reid (RrSG- Alt): (09:07) +1 Stephanie

Lindsay Hamilton-Reid (RrSG- Alt): (09:08) Although as a CPH, the liability looms large

Alan Woods(RYSG): (09:08) +1 Diane ... lets not underestimate what ICANN providing Writting Instructions to the 'processors ' asctually mans in the context of the ICANN Community!

Alan Woods(RYSG): (09:08) \*means

Milton Mueller (NCSG): (09:09) Great statement Diane - it's clear that whatever our substantive differences we agree on the fundamental need for legally compliant definition of role and responsibilities

Alan Woods(RYSG): (09:09) (jeeze my typing is worse than usual today)

Trang Nguyen (ICANN Org Liaison): (09:09) @Thomas, to your comment that ICANN org liaisons have not spoken up about joint controllership, I'd like to remind the group that Dan and I have said previously that joint controllership is different than what's in the Temp Spec and that we'd have to look into it further.

Lindsay Hamilton-Reid (RrSG- Alt): (09:09) Benedict, you keep fading in and out.

Benedict Addis - SSAC: (09:10) ok

Diane Plaut (IPC): (09:10) Absolutely agree - we certainly are making the factual analysis and making legal recommendations that as you said Chris agreed to take into account.

Matt Serlin (RrSG): (09:10) question for ICANN staff - would it be reasonable to ask ICANN org/legal to ensure they submit comments on the published initial report so that we can have a view into their input before a final report ?

Hadia Elminiawi - (ALAC): (09:11) @Thomas - correct it does relate to the roles and responsibilities

Matt Serlin (RrSG): (09:11) it would be a shame to get all the way to a final report to then find that ICANN org objected to our recommendations and conclusions

Margie Milam (BC): (09:12) Its in the charter on Page 6 to "identify a data controller and data processor

Margie Milam (BC): (09:13) so if we arent able to do it- why is it in the Charter and where was ICANN legal when this was adopted?

Matt Serlin (RrSG): (09:13) +1 Margie

Milton Mueller (NCSG): (09:13) Your question answers itself, margie

Alan Woods(RYSG): (09:14) +1 Margie

Hadia Elminiawi - (ALAC): (09:15) @Thomas I am not disagreeing I am just trying to think what the concerns could be - I certainly don't know what ICANN could be thinking of

Margie Milam (BC): (09:16) ICANN org should be more open with this group-- Board Liaisons should see this reaction & take it back to the group

Margie Milam (BC): (09:16) to the Board I mean

Georgios Tselentis (GAC): (09:16) Clarifying the roles now is necessary to assign responsibilities and liability. We should defer this. We need a clear statement from ICANN and CPs before We cannot build policy in the sand

Amr Elsadr (NCSG): (09:16) @Margie: +1

Georgios Tselentis (GAC): (09:17) we should not defer this

Milton Mueller (NCSG): (09:17) Georgios - it is ICANN org who is building things in the sand. ICANN LEgal does not get to decide, based on its own interests, whether they are a Joint controller or not

Milton Mueller (NCSG): (09:17) We must go ahead with the initial report

Benedict Addis - SSAC: (09:18) Yes Milton but their view is important nonetheless.

Brian King (IPC): (09:18) Suggestion for the initial report: merely frame the issue and invite public comment and further legal analysis from ICANN and the legal budget this EPDP has

Milton Mueller (NCSG): (09:18) Fine. Let's hear their view. But it has no veto authority over what we do

Matt Serlin (RrSG): (09:18) I think it's clear we all want view into the ICANN org/legal perspective before we put out a report

Brian King (IPC): (09:18) +1 Matt

Brian King (IPC): (09:19) how long can we wait?

Volker Greimann - RrSG Alt: (09:19) Why can't we all agree on optional disclosure?

Benedict Addis - SSAC: (09:19) Agreed. Perhaps we could ask for the memo by a certain deadline?

Volker Greimann - RrSG Alt: (09:19) and full redaction as the default?

Diane Plaut (IPC): (09:19) Thomas et al - I am also very concerned that JJ said that we don't have enough information to make this evaluation. This was starting statement even before the discussion regarding the legal memo was raised. I tried to make clear, and I have we have to be very strong in our message that we certainly have enough information - we have done all the work through our purpose work and data element review to come to a thorough analysis to be able to assign roles appropriately

Benedict Addis - SSAC: (09:19) Volker we're talking of joint controllership here

Lindsay Hamilton-Reid (RrSG- Alt): (09:20) We need to ensure that the report has substance though and has our initial recommendations.

Alan Greenberg (ALAC): (09:21) It is NOT at all clear that who is the controller(s) is within the picket fence and subject to consensus policy. So we have been asked for our answer and we will give it.

Volker Greimann - RrSG Alt: (09:21) Benedict: Indeed, and ICANN not mandating the certain processing removes them from Joint Controllership

Georgios Tselentis (GAC): (09:22) we do not want to delay the report but we want at this point a clear statement from ICANN and the CPs

Brian King (IPC): (09:23) Do we have a timeline from ICANN on when we get the memo?

Alan Greenberg (ALAC): (09:23) If ICANN can justify it being the sole controller and perhaps significantly reduce CP liabilities, that would be neat. BUT unless we have a high degree of assurance of this, we cannot presume it.

Brian King (IPC): (09:23) They must be able to provide us a timeline

Diane Plaut (IPC): (09:23) Agree with Milton - the Report will also show that all the work has been done to be able to assign the roles factually and that our work has formed the basis for this determination.

Benedict Addis - SSAC: (09:23) No Volker I don't think it does. ICANN org stands in for community policy when it comes to signing contracts.

Alan Woods(RYSG): (09:23) @georgios The CPs have been asking for this clarity for 2 years now. We are waiting on ICANN.

Thomas Rickert (ISPCP): (09:23) We might put a different recommendation into our report based on ICANN's input

Alan Greenberg (ALAC): (09:24) @Thomas, yes, but only if we have 100% confidence in it.

Milton Mueller (NCSG): (09:24) ICANN's input can be filed as a public comment just like everyone else

Matt Serlin (RrSG): (09:25) @Benedict we have invited them...i think the frustration is they haven't acted on that invitation until this late stage!

Benedict Addis - SSAC: (09:25) @Milton hehe!

Ashley Heineman (GAC): (09:26) I wouldn't want to work against any attempt by ICANN to get recognition as THE controller. I think making a firm conclusion that ICANN is joint controller could potentially do that.

Diane Plaut (IPC): (09:27) of course, Thomas

Hadia Elminiawi - (ALAC): (09:27) +1 Thomas sounds good

Brian King (IPC): (09:27) I'm assuming that ICANN is the sole controller, and am open to discussing other interpretations of the facts, noting that we have the ability to influence those facts.

Milton Mueller (NCSG): (09:27) I think the current friction we are getting from ICANN goes in directly opposite direction to their acceptance of a role as THE controller, Ashley

Benedict Addis - SSAC: (09:27) @Ashley strongly disagree. CPH are part of the ecosystem and have a role in establishing policy that determines what data is processed. Hence they are controllers TOO!

Ashley Heineman (GAC): (09:28) I think we are working with twitchy lawyers (no offense to lawyers here).

Alan Woods(RYSG): (09:28) \*twitch

Alan Woods(RYSG): (09:28) :)

Margie Milam (BC): (09:28) Could we publish without mentioning the Controller role responsibilities?

Lindsay Hamilton-Reid (RrSG- Alt): (09:28) I will agree I am a twitchy lawyer Ashley

Amr Elsadr (NCSG): (09:28) The paper mentioned is the roles and responsibilities document?

Milton Mueller (NCSG): (09:28) We are all twitchy ;-)

Kurt Pritz: (09:28) The paper will be re-circulated

Amr Elsadr (NCSG): (09:28) Thanks, Kurt.

Matt Serlin (RrSG): (09:29) Maybe we just put a placeholder in the report that squarely puts the ball in ICANN's court

Matt Serlin (RrSG): (09:29) and just pending receipt and review of this legal memo

Benedict Addis - SSAC: (09:29) Matt sounds sensible

Amr Elsadr (NCSG): (09:30) @Matt: +1

Brian King (IPC): (09:30) What's the timing on this memo?

Lindsay Hamilton-Reid (RrSG- Alt): (09:30) We need to see the memo as soon as possible

Alan Woods(RYSG): (09:30) Can we just not ask Dan who is on the call?

Amr Elsadr (NCSG): (09:30) None that we're aware of, Brian, but JJ did say that he'd try to get us a summary of it soon. That does not bode well, I think.

Brian King (IPC): (09:31) I see in the doc that there's no indication of timing. That's unacceptable

Brian King (IPC): (09:31) Thanks, Amr. Agree that does not bode well.

Thomas Rickert (ISPCP): (09:31) @Trang - I still owe you an answer to your comment below: Aou are right you said you need to look into this, but I have not heard any heads up that there is an issue or that a memo is in the making.

Benedict Addis - SSAC: (09:32) Based on what I've heard from ICANN, I would not hold out any hope for the memo shedding clarity. It's up to us to make a determination, we are now the best informed.

Milton Mueller (NCSG): (09:32) +1 Benedict

Lindsay Hamilton-Reid (RrSG- Alt): (09:32) That doesn't help if ICANN simply won't agree with our determination though.

Thomas Rickert (ISPCP): (09:32) Bye all!

Ashley Heineman (GAC): (09:33) Following on with Margie's comments, I think it is wise to hold tight on the analysis. We can note it is in progress, but only publish the remainder of our work.

Brian King (IPC): (09:34) FWIW, the legal memo will be someone's opinion, not fact. Let's be realistic about what that does for us. Not nothing, but not a silver bullet either.

Marika Konings: (09:34) The group could document where it is current thinking is at, but note that further thinking will go into it?

Brian King (IPC): (09:34) Marika that sounds like a reasonable approach.

Alan Greenberg (ALAC): (09:34) The "answer" is key. But the memo alone without the EDPB agreement is not sufficient for us to rely on it.

Ashley Heineman (GAC): (09:34) Agree with Marika's suggestion.

Matt Serlin (RrSG): (09:34) I think if we publish w/o the memo prior, we need to clearly note its existence and potential impact on our recommendations

Lindsay Hamilton-Reid (RrSG- Alt): (09:35) Agreed Matt

Alan Greenberg (ALAC): (09:35) @Matt, yes, certainly!

Mark Svancarek (BC): (09:35) +1 Matt

Ashley Heineman (GAC): (09:35) Agree with Matt.

Brian King (IPC): (09:35) +1 Matt and Lindsay, Ashley, Margie, Marika

Amr Elsadr (NCSG): (09:35) Also agree with Matt.

Brian King (IPC): (09:35) et al

Alan Woods(RYSG): (09:36) +1 Matt

Trang Nguyen (ICANN Org Liaison): (09:37) Dan and I were both out of the office yesterday. We will listen to the call recording to get caught up and will also get an update regarding the memo to the group.

Brian King (IPC): (09:38) Thanks Trang and Dan.

Benedict Addis - SSAC: (09:38) Yes you should comment Kurt

Alan Greenberg (ALAC): (09:39) Have I missed an announcement of where the January F2F is?

Rafik Dammak (GNSO Council Liaison): (09:39) @alan no decision made yet

Alan Woods(RYSG): (09:41) can we ask ICANN org when to expect release of the memo?

Ashley Heineman (GAC): (09:41) Can someone remind me of the dates for the next face-to-face?

Alan Woods(RYSG): (09:41) 16th Jan?

Amr Elsadr (NCSG): (09:41) @Ashley: 16-18 January.

Ashley Heineman (GAC): (09:42) Thanks!!

Milton Mueller (NCSG): (09:43) No no no no no call on Friday.

Brian King (IPC): (09:44) GA Tech is closed on Fridays for extracurricular floating down the Chattahoochee

Benedict Addis - SSAC: (09:44) Tomorrow could work though?

Hadia Elminiawi - (ALAC): (09:45) Thank you Thomas - Dianne and all

Diane Plaut (IPC): (09:45) My pleasure. Kurt. Bye

Amr Elsadr (NCSG): (09:45) Thanks all. Bye.

Hadia Elminiawi - (ALAC): (09:45) Thank you Thomas - Diane and all

Rafik Dammak (GNSO Council Liaison): (09:45) thanks all