

Alan Woods (RYSG)

Diane Plaut (IPC)

Kurt Pritz

Marc Anderson (RySG)

Stephanie Perrin
(NCSG)

Theo Geurts (RrSG)

Thomas Rickert (ISPCP)

On Audio only: none

Apologies:

Trang Nguyen

Dan Halloran

Staff:

Marika Konings

Caitlin Tubergen

Erika Randall

Berry Cobb

John Jeffrey

Terri Agnew

Terri Agnew: (11/12/2018 11:58) Welcome to the the EPDP Small Roles & Responsibilities team call on Monday, 12 November 2018 at 18:30 UTC for 90 minutes.

Terri Agnew: (11:58) agenda wiki page: <https://community.icann.org/x/uQXVBO>

Berry Cobb: (12:30) Hi All, I'm having issues with the mic on my laptop. I'm doubting I'll need to be talking on this call anyhow.

Theo Geurts RrSG: (12:31) Alan is coming

Theo Geurts RrSG: (12:31) he is updating his PC

Theo Geurts RrSG: (12:31) not by his choice

Alan Woods (RYSG): (12:34) thank you ... sorry all

Marc Anderson (RySG): (12:51) John, is the memo you referenced something that you will be able to share with the ePDP?

Stephanie Perrin (NCSG): (12:54) We would certainly be interested in seeing that memo.

Alan Woods (RYSG): (12:57) i'm a tad confused. Perhaps JJ you could explain to us what the conclusion of the memo is? Are you presupposing that we are talking about a controller / processor such as the situation Theo is currently describing?

Theo Geurts RrSG: (13:00) I think the words joint controller should be replaced with responsibility management rather.

Theo Geurts RrSG: (13:01) No JJ you actually sort out who is responsible/liable on a joint basis throughout the JCA process (my non lawyer impression).

Alan Woods (RYSG): (13:06) apologies...i appear to have lost audio... i'll have to reconnect

Theo Geurts RrSG: (13:07) Not to mention we have 1.4 million resellers as a factor within our industry, who are not contracted through the registrars. Very complex .

Theo Geurts RrSG: (13:07) who are contracted

Theo Geurts RrSG: (13:09) we would need to do a DPIA imo as under art 35

Alan Woods (RYSG): (13:10) sorry everyone .. I had to dial in.

John Jeffrey (ICANN ORG): (13:21) @Thomas -- As you mention in your memo, a joint controller arrangement is only necessary where parties jointly determine the purposes and the means of the processing, i.e. where parties not only cooperate to decide jointly about the purposes but also the means of the processing. Where a party, for example, plays no role in the actual data collection process from registrants, passing registrant data onto the registries, invoicing other activities, in our view, there can be no joint controllership with respect to those processing activities.

John Jeffrey (ICANN ORG): (13:23) but it all depends upon what the agreement looks like because there is no form joint controller agreement.. so why the label instead of the work to know the processing roles and activities

John Jeffrey (ICANN ORG): (13:23) activities

Alan Woods (RYSG): (13:24) John, that is not how a Controllership is decided. we have to look to the control exercised, the balance of the parties, the independence of the parties, etc. not just who performs the processing activity.

Diane Plaut (IPC): (13:25) John, it is a factual analysis under the law.

Diane Plaut (IPC): (13:27) Our policy work has set out where the responsibilities lie. We have simultaneously very carefully therefore looked at the factual analysis of the roles and responsibilities.

Alan Woods (RYSG): (13:42) +1 Thomas. I think that is the only way we can describe

Theo Geurts RrSG: (13:46) I thought we were here to recommend the JCA as a team in our report.

Stephanie Perrin (NCSG): (13:46) Hold the report. Bad enough this was not sorted out before we established the PDP.

Stephanie Perrin (NCSG): (13:47) But for us to labor on without any idea of what ICANN regards as its accountability....this is ridiculous in my view. I cannot speak for the NCSG.

Stephanie Perrin (NCSG): (13:48) WE needed a full DPIA on this prior to starting the EPDP. These issues would have arisen rather earlier.

Thomas Rickert (ISPCP): (13:48) have I lost audio?

John Jeffrey (ICANN ORG): (13:49) My network just dropped..

Alan Woods (RYSG): (13:50) agreed. Thomas you are merely the chair of this meeting today . Thank you for leading the conversation. i definitely think the ePDP needs to discuss this.

John Jeffrey (ICANN ORG): (13:50) we are having network problems at the ICANN Offices..

Diane Plaut (IPC): (13:50) Agreed Thomas, and I am please to express the same views.

Terri Agnew: (13:51) @John, if a dial out on a mobile phone would help, let me know.

John Jeffrey (ICANN ORG): (13:51) I can hear now..

Thomas Rickert (ISPCP): (13:52) Thanks, Diane!

Alan Woods (RYSG): (13:52) well i think that Thomas is representing a view expressed by the team his is not merely expressing his own view.

John Jeffrey (ICANN ORG): (13:53) Understood. and appreciated... !!

John Jeffrey (ICANN ORG): (13:55) The report has many open issues, the question is whether this one is ready to be included..as a conclusion.

John Jeffrey (ICANN ORG): (13:56) we will get a summary of the memo asap

Alan Woods (RYSG): (13:58) agreed. thank you for leading the discussion Thomas.

John Jeffrey (ICANN ORG): (13:58) Thanks Thomas and all!

Diane Plaut (IPC): (13:58) Yes, thank you. This is a multi-stakeholder effort, of which ICANN is essential to make this work