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BRENDA BREWER: Thank you. Hello, everyone. This is Brenda speaking. Welcome to RDS WHOIS-2 Plenary Call #42 on November 26, 2018 at 15:00 UTC.

Attending the call today, Alan, Lili, Dmitry, Stephanie, Susan, Cathrin, and Carlton. From ICANN Org is Jean-Baptiste, Jackie, and Brenda. We have no observers at this time. We do have an apology from Chris. I'd like to remind everyone today's call is being recorded. Please state your name before speaking and I'll turn the call over to Alan. Thank you.

ALAN GREENBERG: Thank you very much. Are there any statements of interests that need to change? I see no hands, no voices. We'll assume not.

The first item on our agenda is the review of the face-to-face meeting and I'll turn it over to Jean-Baptiste.

JEAN-BAPTISTE DEROULEZ: Thank you very much, Alan. I just wanted to mention that Volker just joined the call.

ALAN GREENBERG: Excellent.

JEAN-BAPTISTE DEROULEZ: So, [inaudible] face-to-face meeting, the agreed meeting objectives were the following. First one, to consider the [inaudible] of public

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comment, [inaudible] changes and finalize [our] recommendation. The second one is to [inaudible] the draft report where [inaudible] show changes are needed.

Based on these two meeting objectives, we would like to present the draft agenda that was prepared in a [inaudible] face-to-face meeting. The [inaudible] was also shared [inaudible] invitation for the call.

So, what we did is to – and I think we can scroll as you wish. What we did is that we [inaudible] the current structure of the draft report and looked at the different public comments that were submitted and tried to report as much time as needed for a section of the report where [inaudible] show that changes are still needed.

So, if we start with day one, so the same is [inaudible] face-to-face meeting. Today, we start with a breakfast [inaudible]. On the first day, there will be a welcome where there will be a roll call, call for statement of interest updates, opening remarks on leadership, and go through the work plan of the review team.

Then there will be [inaudible] review of the draft report where changes were identified as needed, and also a discussion on anything new in RDS environment that may require additional [inaudible]. If you recall, that was a discussion that was [inaudible] on the last plenary call.

After that … So, the review of each section of the report will start. So, starting with strategic priority for 40 minutes. After the break, single WHOIS policy. That will be a pertinent discussion. Then, outreach with a 45-minute discussion. Compliance for one hour, 30 minutes. Continuing after the lunch break for another 30 minutes, followed by the

[inaudible] objective [inaudible] structures and processes for [inaudible].

In the afternoon after break, data accuracy for one hour, privacy-proxy services for 35 minutes, and finally the wrap-up from the review team leadership.

So, for each section of the report, [inaudible] consider the different public comments received and updates needed based on those. Confirm whether there is further drafting needed and [inaudible] recommendations.

At the end of your first day, there will be a review team dinner and I would like you to remember to send to Brenda before the end of the day on Wednesday to send your choices for the dinner. And I would ask you, Brenda, maybe to just resend the e-mail in case some did not receive it. Thank you.

BRENDA BREWER: Will do. Thank you.

JEAN-BAPTISTE DEROULEZ: On the second day, again, the day will start with a breakfast and a welcome from the review team leadership and ICANN Org. Again, we follow the draft report sections starting with common interface for 15 minutes, IDNs for 30 minutes. After the morning break, we will go through plan and annual reports for one hour, then anything new for 45 minutes. After the lunch break, it will be law enforcement needs for two hours, considering there were several public comments on that section.

And after the afternoon break, it will be time for discussion on consumer trust for one hour and 30 minutes. Finally, the wrap-up from the review team leadership.

Finally, on day three, again [inaudible] breakfast and welcome, and one hour to go through safeguarding registrant data, 45 minutes to go through the ICANN [bylaw sections]. Then, a parking lot for any item that we parked for further discussion. And in the afternoon have a look at the executive summary and what needs to be updated and a discussion on whether the structure of the report needs to be adjusted, whether there are sections that need to be merged. Finally, at the end of the day, a call for consensus on recommendations and a wrap-up of the face-to-face meeting.

Any comments or questions?

ALAN GREENBERG: What we have done is tried to, number one, allocate proportional time to the various items based on what we feel is both the complexity and the number of comments and the amount of discussion we're likely to have. We've also tried to put the ones where we think we may have some significant drafting to do towards the beginning of the meeting, so there's a good chance we can redo the work and come to conclusions by the end.

The number of comments we had was not very large and, therefore, the three days may be overkill or it may simply be an opportunity to do a really good job. So, we're going to have to play it by ear. Any other

comments on this? Seeing nothing, hearing nothing, let's go on to the next … Oh, sorry, we have Volker. Please go ahead.

VOLKER GREIMANN: Yes, Alan. Thank you. How much of advance will we be providing with a summary of the public comments? Because obviously if we have to read through all the public comments and then decide whether they were ready to change or not, then having an hour for each topic is probably going to be enough.

ALAN GREENBERG: Well, the public comments are available right now and there aren't that many of them and they're not that long. But the summary will be done I think within days of today. We hoped to have it ready for today, but we didn't quite make it. Jean-Baptiste, is that a reasonable expectation?

JEAN-BAPTISTE DEROULEZ: I [inaudible]. So, Volker, [inaudible] comments. Normally, we can still submit it until next Monday. However, [inaudible] substantial progress I sent you [inaudible] shared internally just for a quick review. Then I'm in a position to share it. So, [inaudible] to be able to share it this Wednesday at the latest.

VOLKER GREIMANN: Okay, sounds good.

JEAN-BAPTISTE DEROULEZ: In any case, Alan mentioned there were seven public comments submitted. Most of them are less than four page and they're available directly on the main Wiki page. They're [inaudible] public comment page. So, they're available there.

ALAN GREENBERG: When we scheduled this meeting, we hoped to have the summary ready. It isn't ready but Jean-Baptiste has done some extra work for us. We identified the three comments which … Volker, do you have – not Volker, sorry. Jean-Baptiste, is it easy to pull up the chart you had of the seven comments and where their position was? I don't know if you have an updated version of that right now or not. I don't think it was inserted in today's agenda.

JEAN-BAPTISTE DEROULEZ: Thank you, Alan. What I can do is to just put on screen the public comment summary Excel that I'm working on and this one is updated. Would that work?

ALAN GREENBERG: Yeah. That one should be fine.

JEAN-BAPTISTE DEROULEZ: Okay. Thank you.

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ALAN GREENBERG: As you'll see in a moment, there were very few comments that had substantial comments to be made, and specifically negative comments to be made. In fact, there were only three of them that had a lot of such things. And what we've done for today is to start looking at those and Jean-Baptiste has extracted the substance of the comments on a recommendation by recommendation basis, so we can look at it and get a head start of the kind of discussion we're going to be having. To [inaudible] by the end of the day, we would have done the bulk of the work. Clearly, that's not going to happen and we don't have the whole group here, so we can't take formal decisions. But we'll start getting a feel for some of these things by the end of the day.

You can see, if you look at the chart right now, you'll see, of the comments, there are not a lot where there were disagreements. There were three in particular where there was some really substance that we need to discuss. One is NCSG. The other is the Domain Name Coalition. The third is, to a much lesser extent, the Registrar Stakeholder Group comment. Most of the others were either neutral, supporting, or silent on significant numbers of the items. Sorry, someone was trying to speak?

VOLKER GREIMANN: I just wondered because I just looked at the public comment page and there's no public comments on the [inaudible] anymore. Have they been removed or what happened to the original comments?

ALAN GREENBERG: I hope they haven't. Let me take a look.

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VOLKER GREIMANN: We can view comments. Nothing. It's just the emptiness of the—

ALAN GREENBERG: Hold on. That would be really interesting if that was the case.

VOLKER GREIMANN: You have to pick through. Okay, I see it.

JEAN-BAPTISTE DEROULEZ: Yeah. So, you would see the [inaudible].

VOLKER GREIMANN: I see it now. Sorry.

JEAN-BAPTISTE DEROULEZ: You can [inaudible].

ALAN GREENBERG: Close to heart attack season if you tell me all the comments have disappeared.

VOLKER GREIMANN: Can you please send them again?

ALAN GREENBERG: Please make sure you say the same thing. No, they're all still there. Okay. Any more comments on the face-to-face before we go into the substantive discussion today on some of these comments? Then, let us go to the next agenda item. That is the—

JEAN-BAPTISTE DEROULEZ: Alan?

ALAN GREENBERG: Yes? Sorry.

JEAN-BAPTISTE DEROULEZ: Before we jump into the [inaudible], I just wanted to raise one of the comments that were made from the Non-Commercial Stakeholder Group. That's really on the draft report structure. I was wondering if we could talk about this really quick?

ALAN GREENBERG: Certainly. Please go ahead.

JEAN-BAPTISTE DEROULEZ: Since we are starting to work on updating the report. Let me just … Yes. The NCSG asks … So, let me read it. So, what they say, for the record, is the following public comment. Why there is a short list of [terms] in the appendix [were written in] for either reference that the [first time, an economy of us] [inaudible] entirety. Given the events of this report, it would be a good idea to repeat this in each [inaudible] section

[inaudible] reference would be helpful as appendix A. Similarly, the presentation of the report was not as helpful as it could have been [inaudible] continued across pages where a page break could have added clarity. And the formatting that's contributing to the report legibility. The report could have also been [inaudible] from the [inaudible] typographical errors throughout.

The [naming] and cross-referencing of recommendations from one review team to the other is somewhat confusing. For example, [TN4, R1.1, and E2]. We suggest putting a cross reference in the appendices and executive summary or to simply speak to the recommendation of the first review for numbering, not the subteams.

ALAN GREENBERG: I think most of those make complete sense and I think we should consider them all as we're going forward. I'm not sure, did everyone on this call meet Jackie Treiber, our new editor?

JACKIE TREIBER: Hello, everyone.

VOLKER GREIMANN: Hello, Jackie. Pleased to meet you.

JACKIE TREIBER: You as well, Volker.

ALAN GREENBERG:	Maybe we should take a minute. Is there anyone except Volker who was not on the call last week? Maybe we want to take a minute to let Jackie give her intro spiel again.

JACKIE TRIEBER:

Yes. I'm Jackie Treiber and I worked with ICANN Wiki for about three years, so I'm fairly familiar with the ICANN community. I've been introduced to this project and it's an assignment for me. I'll hopefully be taking you through [inaudible] a little clearer. I fully agree with the report needing some proofreading and general formatting corrections and I definitely think that we should focus on having a clear full explanation or spelling out of the acronym that's used and trying to maintain that consistently throughout the report.

ALAN GREENBERG:

Thank you, Jackie. That's the one item that I thought we had done and it's conceivable we missed one or missed many. But the spelling out of the acronym the first time was used, that's probably something that we had been pretty religious about. But the lack of a glossary defining them where you could flip to when you forget it by the time you get 100 pages later certainly is something that's worthwhile.

In terms of pagination and things like that, as you'll all recall, we were working really, really hard to get this report out without slipping another month because we did slip a month from our original intention. This time we've allowed a fair amount of time for final editing and review, so hopefully that will not be the case. I think it was Volker, but it may have been someone else who said that if indeed we have to slip a

little bit more to make sure the quality of the report is up to what it needs to be, then so be it. But hopefully that won't be necessary.

I think we're all aware of the fact that the quality of the report in terms of readability and a lot of other things was not up to … Certainly not up to my expectations and hopes. We plan to do a lot better this time. It wasn't for lack of trying last time but we just ran out of time. We thought it was important to make the deadline of getting the report out so that it would be discussable over the next few months including at the ICANN 63 meeting.

So, hopefully, we will be in much better shape and I think most of those comments or all of the comments that the NCSG made were quite valid and I'm somewhat ashamed that they needed to be made, but I think we'll – I hope we'll do better this time.

JACKIE TREIBER: I think overall there's consistency, especially [inaudible]. There's a couple of slip-ups with GDPR, but like I said, I'll just fine-comb through it and make sure that all that is consistent. There are a few capitalization inconsistencies as well but I'll just make sure to correct those. I think it'll be absolutely fine. I'll just, like I said earlier, put a laser focus on everything and make sure it's all consistent.

ALAN GREENBERG: Thank you, Jackie. Yeah. It wasn't through lack of trying last time but the fact that each of the sections was written completely independently and then we tried to merge, there was an awful lot that did have to change

to try to be consistent. We changed a lot of it. But clearly we didn't go as far as we should have and this time we will do better.

JACKIE TREIBER: Great.

ALAN GREENBERG: Alright. Let us go on to the first item. As I said, there were three comments that had substantial things to discuss and I thought we would try to look at a few of them here and try to get a feel for them. Actually, I'm going to start at the very last one, so Jean-Baptiste, if we can … Sorry, did you still want to stay on the previous item?

JEAN-BAPTISTE DEROULEZ: I just wanted you to confirm that the face-to-face meeting agenda will now be considered approved and published on the Wiki.

ALAN GREENBERG: Does anyone here have any reason why it shouldn't be at this point? Obviously, it's still eligible for final changes but I think at this point it's in good enough shape that it can be put onto the Wiki unless anyone disagrees. I hear nothing, so thank you, Jean-Baptiste, for reminding us of little formalities. And yes you can go ahead with that.

JEAN-BAPTISTE DEROULEZ: Thank you. And [inaudible] comments.

ALAN GREENBERG: Yeah. Last comment, this is on the bylaw one. Now, you'll remember, what we did on this one was we had the bylaw requirement to look at to what extent we safeguard registrant data. We also had the requirement to consider the OECD guidelines.

What we decided to do is take out the two of them and replace them with a recommendation that the bylaw be adjusted to require review teams to assess how well the RDS policy and practices address applicable data protection and cross border data transfer regulations, laws, and best practices.

We got a very negative comment from the Domain Name Rights Coalition and the Non-Commercial Stakeholders Group, and in fact the Registrar Stakeholder Group, saying that we have forgotten that we are supposed to safeguard registrant data and consider that.

I know the intent when we wrote the words was we were trying to wrap both of the safeguard registrant data and the OECD guidelines into a more generic statement, but in doing so, we omitted the words "safeguard registrant data" and that was a trigger that caused significant concern. I don't think it was an intent to not do it, but simply the wording we used did not capture those particular words and the omission of them caused some problem.

In my mind, it's an easy thing to fix. We can reword it to make sure that those words are incorporated into it. But I just wanted to give you an example of one that I think was a very significant concern but I think one that is easy to address. Not all of them will be that easy. I don't

know to what extent anyone else would like to comment on that or if you've had a chance to read the specific comments [inaudible] not very long. I'll perhaps be quiet for a moment and see if anyone else wants to comment on this one. Volker, please go ahead.

VOLKER GREIMANN: Yes. Thank you, Alan. I think the comments were right on the money. They pointed out the mistake that we made in omitting the reference to safeguarding registrant data, would they send a very bad signal? I think it's good that we had people that were looking at what we were doing very closely and found that mistake. So, I'm very, very happy that we got the chance to correct it.

ALAN GREENBERG: Yeah. Thank you. I wouldn't have called it a mistake. I don't think we intended to omit the concept. We did omit the words and no one mentioned it because the intent is still there. But clearly omitting the words was an error and that can be fixed. I don't think there was anything malicious in the error. It was just an omission of words that, interestingly, no one on our team noticed at the time. Stephanie? You're muted, I believe.

STEPHANIE PERRIN: There we go. Sorry. It took me a while to unmute. Yes. Personally, I could live with the language we came up to but I was quite stunned when I was approached with the comments from the Domain Name Rights – whatever they're called, Kathy Kleiman's group. And had a

difficult time persuading her that was not what we were doing. So, it seems on that we clearly have to fix them.

I do think that possibly applicable best practices or whatever the phrasing is, it works for me. It may not work for those who are not accepting the [inaudible] insolence data protection law. So, losing safeguarding is a bad thing in that situation. So, we need to shore that up.

And it wasn't really clear that were just aiming at the irrelevance of the OECD guidelines. Thanks.

ALAN GREENBERG: Yeah. Thank you. Stunned is actually the word I would have used also if I had been [inaudible] right now to use it. It really caught me by surprised. It's an easy one to fix. I don't think there was anything malicious about it but I'm glad you used that word because it really was how it took me also. I can imagine why people might have objected to our change but that wasn't the reason I was imagining so. As I said, it's an easy one. Stephanie, is that a new hand? I'm guessing not.

Okay, let's roll back and start at the beginning now. I just wanted to give that one because that one in some ways was one of the strongest comments we had and one of the easiest ones to fix. And if we can go to slide number seven.

Now, this was a recommendation that we treat it as a strategic priority. The Registrar Stakeholder Group said if ICANN wants to be viewed as a global organization, then it's important that they monitor and consider

legislation and policy worldwide and not be overly influenced by the US-centered viewpoint.

I think this is a statement that is largely in support of what we're saying and I don't know whether we should put the last part of the sentence explicitly in saying we shouldn't focus … We shouldn't be overly influenced. I certainly wouldn't use those words, but maybe making sure that our recommendation has a focus on global as opposed to either just Europe or just the US. Volker, any thoughts on this? Is this confirming or does this really say we need to do something to make it clearer?

VOLKER GREIMANN: I think this is confirming the basic intent of what we're saying, saying that in the past, ICANN has pretty much ignored certain aspects of privacy law and other aspects that might be affecting the work that exists in the past, so that's something that should be looked at in a better way going forward, and that is, as you say, in a global way. So, I think if we rephrase to make that more clear, then I think the RSG point will be taken into account without taking over their language which may be objectionable in some points.

ALAN GREENBERG: Okay, thank you. Any other comments on the registrar? NCSG said these recommendations hardly address the huge failure to address data protection that's taken place over the last five years, putting the organization at risk. With respect to this objective, NCSG has consistently pointed out that the requirement to comply with data

protection law, it would suffice to listen to us and assign existing staff the staff of researching matters we have raised in consulting these stakeholder groups.

I'm not sure this says anything negative about the comment. It's just reinforcing the statement that, for better or worse, we've heard many times before that there were plenty of alerts and ICANN chose not to take action. I don't think there's any surprises there, but I don't think it's our job to rub it in anymore than by repeating a recommendation which was made five years ago and that we're saying was not followed. Volker and Stephanie in that order.

VOLKER GREIMANN: Yes. I basically agree with you. It's just the first sentence seems to indicate that they would have hoped to have more in that regard, that our recommendations aren't going far enough. I wonder if there's anything else in that comment that substantiates that and maybe make a suggestion of what they would have liked to have seen in our report.

Basically, I think we agree with them … They agree with us that there has been a failure of addressing this in the past and ICANN should do better but they seem to think that our recommendations aren't going far enough. So, what are they looking for?

ALAN GREENBERG: Yeah. I'm not sure a comment on ICANN failure to take action in five years is addressed by the recommendation. I mean, the existence of the recommendation says we believe there's a problem. The analysis said

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they didn't follow the recommendation the first time, so I'm not quite sure how we could change our recommendation. But Stephanie has her hand up and I don't know to what extent Stephanie was involved in the drafting of these comments, but if you can bring any light to this, please go ahead.

STEPHANIE PERRIN: I thought there was more in this comment about risk management. I think one of the concerns is we don't really need ICANN setting up a new division that does long scanning. We need ICANN to listen to its own stakeholder processes and answer it's mail, because from my perspective, the NCSG has been dragging the data commissioners into ICANN meetings for about a decade and a half, and the data commissioners have been writing but ICANN has not taken it on board which speaks more to the bias that I think is reflected in the registrar's comment than … I don't think there was any sort of criticism of the US bias in our NCSG comment but I could be wrong.

But I think this one little [inaudible]. I thought that our comments went to the more systemic problem that we're not succeeding at the multi-stakeholder organization here. Not only is risk management not listening to the losing viewpoint, but they're also not doing regular risk management practices. I mean, it should not be up to the NCSG to be pounding on the door saying, "Hey, guys, the Europeans just passed a regulation that you're going to have to pay attention to." That was in all of the letters from the DPAs that we received since the time the regulation was being fought over in Brussels. So, pre-2016 and then indeed afterwards.

So, it's more of a systemic problem. As I said, I don't think there was any indication of the bias, but I would support the registrar's comment that there is clearly a US bias in the way ICANN reacts to these things. Thanks.

ALAN GREENBERG: Thank you, Stephanie. I see Jean-Baptiste's hand is up, but before I go to him, I charged Jean-Baptiste with creating these slides late on Friday because it was clear we were not going to have the summary ready by now and I did want to have this kind of discussion starting today. So, he put these slides together on very short notice with a requirement among other things that the size of the type be legible. So, this is not necessarily the whole comment in each case. This is an extract to try to convey the idea. So, certainly, it [inaudible] omit parts of the comments. We're just trying to get something manageable to work on today. Jean-Baptiste, did you have something to add?

JEAN-BAPTISTE DEROULEZ: Yes. I would just [inaudible] what you just said. Just wanted to confirm that what Stephanie just mentioned is [inaudible] reporting on [inaudible] summary. The second thing was to mention, Alan, [inaudible] there were several comments from [inaudible] in the chat including [inaudible] the NCSG statement, that it is confirming and asking for emphasis [inaudible]. Finally, [inaudible] says we have been [inaudible] for years, so what [inaudible] see the reference to [inaudible] stakeholder concerns properly.

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ALAN GREENBERG:	Thank you. I admit I am not good at looking at the chat, so please someone bring it to my attention if I missed something.
JEAN-BAPTISTE DEROULEZ:	Will do.
ALAN GREENBERG:	Alright. I'm not quite sure that in a recommendation to the board we should be at a level where we're specifying the level of detail that we're talking about here. It could well fit under the implementation guidelines of it, though. So, I think we need to be careful we are talking to the board, and ultimately, they have to achieve an end, the exact mechanism is unclear.

I also wondered, in this extent, to what extent the GAC has a responsibility of making sure that ICANN is responsible to their various governments. I don't know if I want a discussion here of the role of the GAC, but I'm just wondering to what extent that's another part of the ICANN community that should be part of this process. But we'll have plenty of time in Brussels to discuss that. Next slide, please.

This one is our 1.2 and here we're talking about the mechanism by which the board should make sure that it monitors worldwide legislative action and the registrar community supports the recommendation but supports that updates be provided to the GNSO Council in a regular and timely manner.

Interesting thought. Is that something that we should be asking or is that something that GNSO Council should be asking? Certainly, in the

implementation, we can suggest it. I don't know if Volker has any thoughts on that.

Look at the next one. Non-Commercial Stakeholders Group. Recommendation is hardly … Oh, that's the same comment, I believe. Anyone have any further discussion on this one? Again, we're going into this in significant depth in Brussels, but I think both of these are supporting and perhaps asking for a little bit more fleshing out of potential implementations. Next item, then.

JEAN-BAPTISTE DEROULEZ: Volker has his hand.

ALAN GREENBERG: Oh. Volker, sorry. Volker, please go ahead.

VOLKER GREIMANN: Yeah. I share your pain and I didn't write the Registrar Stakeholder Group comment but it seems that the main intent here is to point out that policy development is a GNSO function and therefore delegating it to the board might not be 100% correct, so having that reference of the GNSO Council as a policy making body that would be responsible for [inaudible] the policy in this place would be possibly beneficial for—

ALAN GREENBERG: Alright. Let's think about how we word that. Our recommendations go to the board. Our recommendations can advise the board to make

recommendations to other parts of the group. I believe that's how it's been handled in past times. Carlton is saying since the registry – I assume Registrar Stakeholder Group is part of the GNSO Council, take their suggestion on board. Extend coverage to the recommendation to the council as well. As I said, I don't know … We're not writing to the GNSO Council, but we can ask the board to take such action. Next item, R3.1.

This is one on outreach. Registrar Stakeholder Group supported, however the cost should not increase the ICANN budget. I'm not quite sure, Volker, how we can take that action, but I also can't imagine that the kind of outreach we're talking about is anywhere near a significant number of the overall ICANN budget. I look forward to you suggesting how we can incorporate that. Volker, go ahead, please.

VOLKER GREIMANN: I think this goes from … This is not really a comment to a specific recommendation but rather a general comment that the stakeholder group has for a long time, which is that ICANN has a tendency of providing [inaudible] problems, so creating a advisory groups or hiring outreach companies who are an adjunct of doing the actual work but do a good job of wasting ICANN's money. That's something that we just feel I think the ICANN board should be conscious of, that basically spend your money wisely, do something in a way that actually works but don't just throw money at a problem to be able to say, "Look, we did something."

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ALAN GREENBERG: I don't think I can argue with that, nor would I want to. The Non-Commercial Stakeholder Group is saying basically we don't need to do any outreach and it certainly isn't high priority. I guess I object strenuously to that, given that we are going to be changing the WHOIS environment substantially. I believe that making sure that the documentation is up-to-date and making sure that we reach out so that the message is conveyed to people to registrars, to registrants rather, telling them exactly how their data will be used or not and to what extent it will be available or not available and telling other people what paths are available, including perhaps to some groups of people how they can get access to selected data I think is going to be exceedingly different given that we're changing the dynamics in such a large way.

I guess I would have a problem saying we shouldn't do any outreach, we should just be silent and let people figure it out for themselves. Stephanie?

STEPHANIE PERRIN: I think there's some confusion here, Alan. Who is "we"? This report is not going to be changing the WHOIS environment. The EPDP or the results of that process may change the WHOIS environment and compliance with law will certainly change the environment and there is a requirement under the law to do exactly what you're talking about, explain the rights to everybody, draft up contracts, submit new contracts that specify the processing and controller arrangements. All of that is a result of compliance with law. In my view, it's out of scope. So, for us to have a recommendation for outreach means, under the terms

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of our reference, that we are recommending outreach for different purposes, and if so, what are they?

As I say, I think that it's premature for this group to be saying there needs to be outreach. We have a whole lot of policy development that is going on under different auspices, so that's why this recommendation says drop it. It's not within the remit of this group.

ALAN GREENBERG: Stephanie, if I remember correctly, when I said we, it was not we who were changing the environment. The environment is changing for all the reasons we talked about. I believe this recommendation either in the recommendation or in the implementation guidelines explicitly say don't do any of this until the dust settles, until we know what the new environment is that we're working with.

And yes, I think mentioning the fact that much of this outreach is in fact mandated by law anyway, not necessarily all of it but certainly a significant part of it is relevant. But the recommendation is clear that it doesn't get done until we understand what the new environment is. Stephanie, go ahead, then, unless that's an old hand.

STEPHANIE PERRIN: The thing is, the original recommendation for outreach was to make parties that were unaware of the existence of WHOIS aware of the existence of WHOIS, using the term WHOIS very loosely.

The whole new regime that meets compliance with GDPR is going to be quite different. So, to me, the very purpose of outreach changes and its'

certainly not explained here. It's as if we are beating the same dead horse that has been hanging around since WHOIS-1.

ALAN GREENBERG: Thank you, Stephanie. This is not the original recommendation. This is our recommendation. And yes the intent of this outreach may well be very different from the intent of the original outreach. To the extent that we need to make that clear, that's why we're talking now and that's why we're going to meet for three days in Brussels. But the NCSG comment says don't do any outreach and that doesn't seem to be the right answer to me. That's really the substance of their comment. Jean-Baptiste, please go ahead.

JEAN-BAPTISTE DEROULEZ: Thank you, Alan. I just wanted to mention the three comments in the chat. [inaudible] from Carlton. The [inaudible] is there needs to be [inaudible] for more outreach [inaudible] more about the planning and [inaudible] of the funds [inaudible] to Stephanie. Exactly. Compliance with law would require even more outreach, focusing to the [inaudible] work forward and Lili commented that she agreed with you, Alan. The ones who commented on the draft report [inaudible] outreach. Thank you.

ALAN GREENBERG: Thank you. We'll figure out how to satisfy both Carlton's and the registrar request to not spend too much money. Clearly, anything costs money. The question is do you use it wisely? And as Stephanie pointed

out, some of this is compliance with the law. Whether we like it or not, we are going to have to do certain types of education. Let's go ahead. How are we doing on time? We're still within the hour.

4.2, this is the one looking at contractual compliance and saying look for patterns. The Registrar Stakeholder Group said I would like to understand how they can detect patterns. We already do audits and it is unclear how this recommendation differs from current practice. The Domain Name Rights Coalition said it's a dangerous recommendation of registrants it should be removed as untimely and be on scope or narrowed in expressed language to be more tailored, more narrowly tailored intent of the WHOIS RDS-2. I'm not quite sure I understand that comment but maybe the surrounding language makes it clearer.

NCSG says given the RAA will be reviewed under GDPR, recommending holding off and implementing new expenses, i.e. audits, until the new workload of the compliance team has been determined. Breach disclosures, for instance, are a new requirement for both controllers and processors. Monitoring for unreported breaches might be a more worthy candidate for compliance action.

My initial comments are on the Registrar Stakeholder comment, I tend to agree. I think we're going to have to be a little bit more specific. Moreover, it's become a little bit clearer in some discussions that I've had over the last few months that, although compliance when we talk to them said they do not do the kind of thing we're talking about, it would appear that in fact they do do it and they're already doing that kind of thing. From that point of view, it's not clear this recommendation is still needed, but if it is, we'll probably need to be

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clearer as to exactly what we're talking about. I see Volker has his hand up and I guess if Susan is in a position where she can talk, she may want to weigh in on this one. Volker, go ahead.

VOLKER GREIMANN: Yeah. I talked a with a few people before this was drafted and I think the main concern was that this could be read in a way that ICANN compliance is instructed to go on a fishing expedition going forward and start looking for data that they currently are not accessing, whereas our original intent was that they should look at the data that they have from the complaints that they have and then see if there's something that can be looked at, if they don't look at these complaints on a one-by-one basis but rather look at them on an aggregate basis.

And yes, some of this is already done. We see some of that in our interaction at every ICANN meeting with compliance, but obviously that's not something that can be shown in the data that they have made available so far. So, maybe just tighten up the language a bit to make sure that this is intended to look at the data that they already have, and if you find that they are already doing this [inaudible], then we might consider removing this altogether.

ALAN GREENBERG: Thank you. Jean-Baptiste?

JEAN-BAPTISTE DEROULEZ: Thank you, Alan. It was again to read the comments in the chat. There was one from Stephanie. [inaudible] activity [inaudible] and what role

ICANN should play. Then, from Carlton, this recommendation was about [inaudible] analysis and capturing more and better data over time.

ALAN GREENBERG: Okay.

SUSAN KAWAGUCHI: This is … Sorry, I seem to have—

ALAN GREENBERG: Go ahead.

SUSAN KAWAGUCHI: Multi-tasking seemed to have been [inaudible] out of Adobe. One of the points of that recommendation was that, especially not in every single WHOIS inaccuracy complaint, but if there is a known or commonly known issue and/or suspicious behavior going on that ICANN does take another step and not going on a fishing expedition but just using all of the information they already have to actually make an effective enforcement.

So, if we have a registry, for example, that is not following process or is known for lots of phishing type of domain names or something and there's repeated reports of that, then it seems to me they should not do the one-off, that they should look at it more as a take a comprehensive look. So, that's what we were trying to get at with that.

ALAN GREENBERG:

Thank you. The intent certainly was to if you see the same kind of complaint time and time again from the same registrar, then you should notice the pattern and not just treat the next one that comes in as another independent complaint that is not related to anything.

But, as I've said, the indications I've gotten talking to people above Maguy is that they are in fact doing that. So, I'm not sure to what extent compliance is simply reluctant to talk about doing things other than addressing complaints that come in as individual complaints. I think this may be a perception of how they feel they want to be viewed. But that's pure supposition on my part. Volker, please go ahead.

VOLKER GREIMANN:

Yes. One of my experiences when talking to compliance is also that they are very conscious of not appearing to be bias in any way against any single parties that would make maybe their actions against such a registrar attackable. However, they are always unofficially and through various methods trying to figure out if there's, for example, registrars that we feel are not doing things quite the way they should be. So, there's official communications coming out of compliance of what they're doing and there's certain unofficial methods of researching as well that they wouldn't feel comfortable being on the record, I guess, simply because it would make their efforts against such registrars [attackable] in a court of law, what have you.

So, by asking to put that on the record, we might even undermine the actual work that's going on in compliance.

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ALAN GREENBERG: Okay. I think we're going to have significant discussion on this in Brussels. Jean-Baptiste?

JEAN-BAPTISTE DEROULEZ: Thank you, Alan. I just wanted to read out loud [inaudible] comments which was [inaudible] compliance reports. Some of that is already happening. When we collect more of this kind of data, [inaudible] can begin making predictions.

ALAN GREENBERG: Thank you. Alright. Let's go on to the next one and see what that has. Any thoughts on the … Sorry, we discussed the registrar comment but not the Domain Name Rights Coalition or NCSG. Anyone want to do anything on this one right now or just defer it until we get to Brussels? Then, let's go on to the next one.

This is a nice one on the Accuracy Reporting System. The Registrar Stakeholder Group is of the opinion recommendation should address existing issues that are evidenced by data instead of initiating fishing expeditions. They also note that they consider it highly doubtful the ARS [protocol] can be resumed under GDPR and the applicable privacy legislation as it requires ICANN accessing and processing non-public personal data for no valid reason.

I guess my comment on that is, based on what happens out of the EPDP, there will either be … ICANN will either have some level of access, presumably for what is justified as a legal valid purpose or it will not. That's completely out of our control.

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Non-Commercial Stakeholder Group [inaudible] the review team does a great job in compiling the work that ICANN has done in rights and responsibilities. This report will be a good resource document for those attempting to fix this problem. However, this very detailed section should remain a resource for the future work. We do not see the merit of developing new accuracy recommendations when the entire data set for publication is about to change. NCSG recommends removing this recommendation unless, as your footnote indicates, something arises which merits future action.

My only comment on that is I'm not quite sure what the relevance is of talking about what data is available for publication which is not necessarily the same as making sure the data is accurate, whether it's published or not.

Comments from anyone? Volker?

VOLKER GREIMANN: Yes, Alan. I think you also mentioned earlier on the list that you had [inaudible] during your talks with compliance also had a different perspective on these numbers. As I had already tried to indicate at our last face-to-face meeting, that there are certain time aspects that make all these [numbers]. I always held the opinion that basically while the number [inaudible] very hard, a lot of this is explainable through simple deletions and updates that happened in the time between the ARS report is generated and ICANN compliance gets to deal with these complaints. Based on that, we might even want to consider removing this recommendation.

ALAN GREENBERG: Yeah. I think you're talking about the other recommendation, the one that says we should look for missing data.

VOLKER GREIMANN: No, this is also a question of when you're saying that a certain amount of tickets are being closed or when we are saying that in our report and we find that, in most cases, this happens because of the passage of time and being the reason between [inaudible]. So, we see something as [anomalous] and I think that's also reflected in the Registrar Stakeholder Group comment when they say that this may be a fishing expedition. We see a number. We don't know exactly what it means. We assume it is as a nefarious or at least questionable, and therefore we need to find out why this number exists in this form and that's what they are calling a fishing expedition. Basically, that's the disconnect here.

ALAN GREENBERG: Yeah. I think Susan and I have some homework to do and then reporting to the group what we found in our discussion with compliance, and this one may well substantially change because of that. Stephanie, please go ahead.

STEPHANIE PERRIN: I think basically the NCSG is in agreement with the Registrar Stakeholder Group, although I haven't read their comment yet. I would just like to clarify that point about whether the accuracy reporting has anything to do with public record. I think it does because the data that is collected

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to the public record usually gets more of our focus than the data that is held with the registrar because I think implicitly the registrant assumes they have a relationship with the registrar and they can [pre] change that data. I think there is a perception that the public data record lives there and is made public, among those whom understand public records. So, I think it's important.

[inaudible]. There will be so little in the public records. In other words, there may not be some of the data elements gathered. The jury is still out on that, literally. So, it just seem to me that a new review team can generate a new recommendation rather than paving the cow path which is not an expression we use there but it's a very common Canadian one that I trust you'll recognize. Thanks.

ALAN GREENBERG: Actually, not one I've ever heard before. Jean-Baptiste, please go ahead.

JEAN-BAPTISTE DEROULEZ: Thank you, Alan. Two comments from Carlton in the chat. First one is I [inaudible] disagree the need for keeping [inaudible] because [inaudible] privacy law, inside [inaudible] data subject to excess [inaudible] action, so the data controller has the duty of care to see accurate data is created. And second one is accuracy of data is a proactive requirement for data controller.

ALAN GREENBERG: Thank you. That's an interesting question, Carlton. There is some debate going on whether the accuracy requirements rest solely on the

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registrant to make sure their data is correct and the requirement of the controller to change it if the data subject says it's incorrect or if there is an obligation of the controller to take action if it becomes aware for other reasons that the data is incorrect. I don't really want to have a debate here on which of those is correct but it's a discussion that will be had.

Again, the ARS I think is something that we need to do some homework on. Volker says the data accuracy is the data subject right. My reading of it is that is the rationale for it there, but certainly the advise given by some data protection offices is that there is an obligation of the controller to act if they understand the data is incorrect. Not a discussion we can have here or should have here.

Let's do one more and then I'm going to perhaps end the meeting. One or two more and end the meeting because I really have to be out of here a little before the end of the meeting.

R11.1 is ICANN board should direct ICANN Organization – sorry, go ahead.

JEAN-BAPTISTE DEROULEZ: Sorry. Just wanted to mention that there is recommendation from Volker the accuracy requirement of the [inaudible] ensure the data subjected [inaudible] data, not to checking the data provided by the [inaudible] and correcting it. Thank you.

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ALAN GREENBERG:	As I've said, I've read different opinions of that but I don't think it's a debate we can have here. And if I'm wrong, I'm willing to be wrong.
	11.1 is the ICANN board should direct the ICANN Organization to define metrics or service-level agreements to track and evaluate … Oh, this is the WHOIS portal, that we should be monitoring that and taking action if it's not working properly. Registrar supports it and NCSG says given the flux of data returned in response to queries, perhaps defining metrics is a low priority at this point. Recommend dropping this one. Anyone have any comments?
	I don't believe we said this one was a high priority, did we? I can't remember that. I wouldn't have thought it's a very high priority one but I would have thought it's something that should not be delayed too long. The WHOIS portal is defined as the definitive source of information for whatever information is available and I'll point out that right now there is a lot of information still available for non-European registrations but the portal does not provide that kind of information. Any further comments on this one? Alright, next one, then.
JEAN-BAPTISTE DEROULEZ:	Alan, I just wanted to mention that this one was a low priority.
ALAN GREENBERG:	Okay, thank you. That's what I thought. And law enforcement. I don't know if I want to get into the debate here on law enforcement ones. Clearly, there's going to be a significant difference of opinion and I think this one is going to need the whole group being there, so my inclination

JEAN-BAPTISTE DEROULEZ: Yes. Two comments, Alan, to put what you have just said. On the [inaudible] recommendation [inaudible] submitted, it is correlated to the security complaints, so IMHO it stays the same priority.

ALAN GREENBERG: Thank you. I think we need to work again, Carlton, a microphone of [his own]. With that, if we're not doing the law enforcement, the next one is the bylaw one which we already did. And that brings an end to this.

I think this gives a flavor for the kinds of discussions we're going to have in Brussels. I think we're probably going to have some difficult discussions on a few of these. Overall, I think we will end up with a set of recommendations that will be significantly stronger than the ones that were in the draft report.

One of the other items that I do want to mention is one of the things we need to do in Brussels but it would be good if we could get a head's up ahead of time is based on whatever has happened since we have done the draft report, are there any other things that we think may need us to work on recommendations? Although it is nice to have all recommendations aired in a draft report, there is no requirement or no prohibition for us adding a new recommendation that hasn't been seen before in a final report.

But to the extent that we can get notice of it ahead of time, that would be really good. But we should all be thinking about to what extend we need to … There are things that we did not consider for one reason or another but are now more relevant and need to be aired.

With that, we're on any other business. Jean-Baptiste, do we have any?

JEAN-BAPTISTE DEROULEZ: Not that I know.

ALAN GREENBERG: Alright. Anyone else have any other business? If not, we will adjourn a little bit early. I see nothing, so Jean-Baptiste, over to you for decisions and action items.

JEAN-BAPTISTE DEROULEZ: Thank you, Alan. In terms of decisions reached, the [inaudible] agenda is approved for action items for members to [inaudible] before Wednesday at 23:59 UTC. And [inaudible] send a reminder. Then, [inaudible] to act on NCSG comments on draft report clarity.

ALAN GREENBERG: Thank you. Any further comments before we break? Thank you, Carlton. Carlton says this was a good meeting. I thought it was interesting.

Actually, we do have an any other business. Is there any reason we need to meet next week? Next week is our last possible meeting before the face to face. I don't think there is a need for a meeting next week. Does

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anyone believe strongly there should be or even weekly there should be? Somebody is typing. "I could do without a meeting next week," says Volker. Carlton is typing and I assume Carlton is saying the same thing.

VOLKER GREIMANN: He is.

ALAN GREENBERG: Alright. I'm not quite sure about an eight-hour drive from Paris but we'll ignore that for the moment. Carlton will enlighten us when we get to Brussels. Alright. Then, I would suggest that we cancel next week's meeting.

JEAN-BAPTISTE DEROULEZ: Will do, Alan.

ALAN GREENBERG: Perhaps we should have a leadership meeting the middle of next week just in case anything comes up regarding planning for the face to face. Other than that, I think we do not need to meet until then. So, we'll cancel this week's leadership meeting as well, I would think. Jean-Baptiste, unless you feel you need the meeting to discuss the analysis.

JEAN-BAPTISTE DEROULEZ: It can be done via e-mail, I guess.

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ALAN GREENBERG: Okay. Alright. Thank you, all, for joining us. We had a good turnout today and look forward to talking to you and seeing you soon. Bye-bye.

JEAN-BAPTISTE DEROULEZ: Thank you, all.

[END OF TRANSCRIPTION]