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YESIM NAZLAR: Let's please first start the recording. Good morning, good afternoon and good evening to everyone. Welcome to the At-Large Consolidated Policy Working Group, CPWG call taking place on Wednesday, 28 of November 2018 at 12:00 UTC.

On our call today we have Olivier Crépin-Leblond, Jonathan Zuck, Holly Raiche, Cheryl Langdon-Orr, Tijani Ben Jemaa, Daniel Nanghaka, Sebastien Bachollet, Hadia Elminiawi, Maria Korniiets, Gordon Chillcott, Alan Greenberg, Maureen Hilyard, Eduardo Diaz, Kaili Kan, Rainer Rodewald, Satish Babu, Marita Moll, Lilianne Ivette De Luque, Yrjö Lansipuro, and Greg Shatan.

We have received apologies from Bastiaan Goslings, Vanda Scartezini, Christopher Wilkinson, Justine Chew, and Evin Erdogdu from staff. And from staff side, we have Heidi Ullrich, Gisella Gruber, and myself, Yeşim Nazlar, and I will be doing the call management for today's call.

And before we start, I would like to remind everyone to state your names please before speaking for the transcription purposes. And now, I would like to leave the floor back to you, Jonathan, I think. Thank you.

ALAN GREENBERG: But before that, Cheryl says it doesn't look like the call is being recorded.

YESIM NAZLAR: The recording is not AC recording, it's the audio recording. Thank you.

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*Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.*

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JONATHAN ZUCK: Thanks, Yesim. Welcome, everybody. This is a special call of the CPWG, and we are going to jump right into a discussion on some specific points in the EPDP process that require some discussion in an attempt at consensus. So without further ado, I'd like to just pass the microphone over to Alan and Hadia.

ALAN GREENBERG: Thank you very much. Can we have the presentation up, please? Now, this is a long presentation. This essentially is a presentation of the full set of questions and issues that are being raised by the EPDP for consultation. We will spend varying amounts of time on it, but I think it's important to get a perspective of just what are we talking about here, because there's a lot of different moving parts to this, and many of them are interlinked.

Before we start, I think the question has come up of how are we going to move forward on this. As I said, this is a messy thing. There are several hundred questions and subsequent that are being asked, and Hadia and I have discussed it a little bit and I think it makes sense for us to do the drafting, but we must get input.

I have no problem saying we're the ones in the easiest position to actually fill in the boxes, and in many cases suggest answers, but it must be really clear going forward that these are At-Large answers and not ours personally. So our challenge is going to be to get understanding to the extent that's possible. And as you'll see, some of these issues are a little bit less than straightforward. But hopefully, this call will be the

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start of it. It's unfortunate the whole Adobe Connect is not being recorded, because that would have been useful for people to be able to review after the fact. However, if we –

YESIM NAZLAR: Alan –

ALAN GREENBERG: Yes, please go ahead.

YESIM NAZLAR: I'm so sorry for interrupting, but I can just start the recording of the AC right now.

ALAN GREENBERG: That would be useful. Thank you.

YESIM NAZLAR: Sure. My pleasure. The recording of the AC has started now.

ALAN GREENBERG: Alright. So we're going to dive right into it. and if we can go to the first slide.

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YESIM NAZLAR: And me again, I'm so sorry for that. Would you like to control your own slides, or shall I do it for you? I made you a presenter.

ALAN GREENBERG: Alright, then I'll control the slides.

YESIM NAZLAR: Okay. Thank you.

ALAN GREENBERG: Okay. Before we actually start the substance, we need to get a few definitions going, because for those who haven't studied – and I use the term advisedly – the GDPR, the core discussions focus around definitions that are not intuitively obvious.

The first one is purposes for processing data. The whole concept of GDPR is you can only process personal information if there is a legitimate reason. And who defines legitimate is not at all clear, but you have to be able to defend it. And you must be able to inform the data subjects of all of the reasons that their data is being collected and how it will be used.

So core in the discussion is why are we doing – for any given data element, why do we need it, who will be using it, and how will it be used? And then the related part of this is the concept of data controllers and data processors. Again, not terms that are used in our normal language.

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The data controller is an entity, a person or a legal person or a public authority or an agency or a body or anyone else who determines the purposes and the means of processing. Now, for any given data element and any given reason, you can have a controller, you can have multiple controllers who are jointly controlling it.

There is also apparently something – this has come up recently – you can have multiple controllers who are independent of each other, not joint controllers. Not 100% clear what that means. And then you have data processor. Data processor is an entity who does something with the data, essentially at – on the instructions of the data controller.

But it's important to note that either controlling the data or controlling how it's processed makes you a controller. I'm not sure – okay, so let's go back to that slide. So that means we can't have any of these discussions until we identify what the elements are and why we're using each one of them. And that gets a little bit complicated. More than a little bit.

Satish says there can also be a chain of data processors. Well, in any of these operations, there are going to be typically many data processors because the data will get passed from one to the other. The transmission of the data is also a critical issue that will be looked at.

Alright, we'll go into this more as we go ahead. They vary slightly from question to question, but for each of the questions, we're essentially saying, do we support the purpose as written, do we support the purpose as written but with a change, if there's a change, what change are we talking about, and why are we making that change?

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And also, we could obviously say this purpose should be deleted, this is not a purpose. But again, anytime we suggest a change, we're going to have to defend it, because that will end up being a significant discussion once we go back to the EPDP.

Recommendation number one identifies the purposes for processing registration data. We have spent an exhaustive amount of time coming up with these. They may sound like wording which is arbitrary, but it was carefully decided. But I will say that in the meeting as late as yesterday, we were again debating whether some of the wording was appropriate and talking about changing it. So this comes up – the discussion is not yet finished.

Now, for each of the purposes, we've also identified the related processing activities, the lawful basis for it. And lawful basis is a technical term under the GDPR that says there's a list of enumerated types of reasons that you can look at data or process data. And remember, collection is a process, so just by collecting it, you are processing it, and therefore you can't collect it without one of these reasons.

The reasons that we're looking at mostly within registration data is it is required that we collect it based on agreements or future agreements with the data subject. And the second one is that someone else, a third party has a need for the data, and that need is balanced by the loss of privacy on the point of view of the data subject.

So in other words, we can give out this data, but only if in the individual case, we can justify why that third party needs the data. As you can see,

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that tends to become an interesting question, and when we've been talking about the unified access model, that's a key question, because if we have a unified access model, that essentially determines if person X can get a certain type of data, that's taking the judgment call away from the data controller or the data processor, and that has potential liabilities with it.

Now, I think going forward, if there are any questions, let's raise them going forward. I may or may not be able to take them, because if we start getting too many questions, we'll get bogged down. But at this point, if there are any questions, please put your hand up, and if I don't notice it, someone let me know.

Hadia has a question, she doesn't understand something. I hope not. Hadia, please go ahead.

HADIA ELMINIAWI: Yes. Can you hear me?

ALAN GREENBERG: We can.

HADIA ELMINIAWI: Okay, good. So I would just like to note here that it is very important to get the lawful basis correct from the very beginning. So you can't for example decide that your lawful basis is user consent, which is for example [section B,] and then after you start your business [and though I'm using this as a] lawful purpose, after the user maybe withdraws his

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content, you say “I’m sorry, I was wrong, this is my lawful basis is [inaudible] it’s legitimate interest for those [regions.]”

So it’s very important to keep in mind that we need to get the lawful basis correct from the very beginning, because it’s not possible to change it later if the circumstances change. Thank you.

ALAN GREENBERG:

Thank you. Consent is one of the lawful bases, that is the data subject says it’s okay. But that consent can be withdrawn at any time, so in general, we are not using consent as one of the lawful bases. There could be some exceptions. The other thing worth noting before we dive into the specifics is the issue of who is the controller for much of this is still an issue not settled at all.

The EPDP has come to the conclusion that for pretty much everything, we, ICANN and the contracted parties, are joint controllers. That opinion is being questioned by ICANN, and the decision – the final vote is not in yet, so to speak.

One of the critical issues is you probably heard mentioned that the unified access model will only work if ICANN can reduce the liabilities of the contracted parties. That implies at some level that we are more controller than they are and therefore we set the rules, they don’t. It’s not clear if that is indeed how the data authorities in the various countries will judge this, but it’s a critical question and it’s not one that is resolved right now.



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If we change the position and say ICANN is for instance a sole controller, almost everything we're talking about here changes. So it is a key point and it is not settled, and it's a key point on which other things hinge. So take everything we're saying with a grain of salt. Alright. Next. Okay, I have the slides.

Alright. We have a variety of purposes. We're not going to spend a lot of time talking about them, but just to give you a feel for the level of granularity we're looking at. So purpose number one is as subject to registry and registrar terms and conditions, policies and ICANN's policies –

YESIM NAZLAR: Alan?

ALAN GREENBERG: Yes.

YESIM NAZLAR: I'm so sorry for interrupting, your audio was fading away. Just can we try it once again?

ALAN GREENBERG: Is this any better?

YESIM NAZLAR: It is much better. Thank you.

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ALAN GREENBERG:

Thank you. Let me know if it goes bad again. So, subject to all the rules that apply, the first purpose is to establish the rights associated with the registered name holder to establish that a registered name holder may exercise his rights and to activate the registered name. In other words, we're collecting the data so that we can actually provide a domain name which works on the Internet.

Purpose number two is to maintain the security, stability and resilience of the domain name system. Clearly a major purpose of ICANN, and to do that, because ICANN itself does not run everything, some of this data may need to be made available to a third party. And that access has to be justified, and that's what I was talking about before. So this gives us the ability to provide the data to some third party, perhaps through a unified access model once we settle up all of the rules associated with it.

Purpose three is to enable communication with or notification to the registered name holders or their delegates with regard to technical and possibly administrative uses of the domain name. So this essentially comes back to the original reason for WHOIS, so if something's broken we can try to contact the person and fix it.

Provide mechanisms for safeguarding registered name holders' registration data in the event of a business failure. This is escrow. If a registrar has all of the data, or a registry, and that entity ceases to exist, potentially overnight, this allows us to maintain the registration with

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another provider. Similarly, if a registry decides to stop business, this will allow us to continue operating.

Contractual compliance. Compliance has to be able to enforce the contracts, and therefore under some conditions, Compliance needs access. The details of that are far from clear.

Purpose six, to coordinate, operationalize and facilitate policies for resolution of disputes regarding or related to the registration of domain names. So these are things like UDRP, the URS, there's various other dispute processes that can be associated with a given registration, and this says we need to be able to do that.

There's been a significant amount of discussion on exactly what should be the verbs at the beginning of this. There are some people who believe coordinate is exactly the right word and other people who believe coordinated is exactly the wrong word, and so forth.

Purpose seven, enabling validation to confirm that registered name holder meets optional gTLD requirements. This allows us to, for instance with dot-NYC, dot New York City who says a registration must have some nexus point, some connection to New York City, and that should be in WHOIS, this would allow us to continue that practice. That's a registry-driven practice, not an ICANN-driven one, but nevertheless has to be identified.

Alright, so those are the purposes that have been described. The next question is, are there any other purposes that we believe are needed. One of them that's been talked about is use by ICANN organization for research or for training, specifically the office of the chief technology

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officer currently uses data – or did use data on occasion before the temporary spec was put in place – related to particular research or training of other people on how to use the WHOIS RDS data in certain cases.

A purpose has been drafted on that. It came in quite late and didn't make it into the additional purposes. From our perspective, we believe that this is a really important one because everything is not all cut and dry. This is a world that's evolving, and the ability for ICANN to access data for these kinds of purposes is important.

The second one that is not there at all right now, although it was added as words, an adjunct to the research one, so it may end up being there or it may not be there at this point, is the data accuracy reporting system. As a result of the first WHOIS Review Team five, six years ago, because it was felt that there are significant accuracy problems – and that is proven to be true – there was a process put in place by which domain names could be randomly sampled and verified to see to what extent there are issues with them.

From those of you who have looked at the RDS review team report, you'll see that the program has been run for several years, it has pointed out that a very significant number of the randomly sampled domains have accuracy problems.

Now, one of the questions is to what extent should ICANN be caring about that now. The GDPR has some very significant accuracy rules associated with it, but they are there originally to allow a data subject to correct an error. It is not fully clear to what extent the data controller, if

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the controller recognizes an error, has an obligation to fix it. The GDPR itself is unclear on this. Some data protection authorities say that once a controller has identified a problem, they have an obligation to fix it. Others have implied that if the data subject doesn't complain, there is no problem. It clearly does not contemplate a situation where the data subject deliberately gives incorrect information or accidentally gives incomplete information.

So the question is, to what extent does At-Large support these two new purposes, and are there other purposes that we have not discussed at all for which the data can be used? And I'm going to pause now and see, are there questions?

OLIVIER CRÉPIN-LEBLOND: Olivier –

ALAN GREENBERG: Cheryl had a question on purpose six. What is purpose six? Sorry.

OLIVIER CRÉPIN-LEBLOND: Olivier [inaudible]

ALAN GREENBERG: Dispute processes. I'm not quite sure what Cheryl's question is, but perhaps Cheryl will put up her hand.

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HADIA ELMINIAWI: I could get that.

ALAN GREENBERG: Okay.

HADIA ELMINIAWI: Yeah. I think –

ALAN GREENBERG: Hadia, please go ahead.

HADIA ELMINIAWI: Yeah. I think what Cheryl is asking is, what other suggestions? Because we did mention for example that the word “coordinate,” some people don’t actually want this word. So what are the other suggestions? And I think that’s what I understood.

So actually, there are no other suggestions yet apart from like reporting a word like “coordinate” because some don’t see how “coordinate” relates to the data [processing.] Okay, so using the word “coordinate” might not really relate to data processing, but definitely, “operationalize” or “implement,” this has to do with data processing. So I don’t think it’s a big issue if we remove “coordinate” and keep “implement” or “operationalize and facilitate policies for resolution.” But anyway, it’s a debate that’s going on.

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ALAN GREENBERG:

Yeah. Thank you, Hadia. This is one where it largely relates to intellectual property and other similar rights, and I don't believe it's anything we need to be deeply involved in. Those people to whom this is their livelihood, I think, will be focusing on these issues. And although there review team user implications in them, the people who are doing this for a living, I think, have the largest amount of input into it. So there's only so many things we can get involved in.

One of the key ones here is although the word doesn't show up on the screen, it has also been suggested that the creation of policies is somehow related to this purpose, and ICANN org has asked the question, how does the creation of policies – that is the PDP – manipulate registrant data. And it doesn't, from my perspective, so that's part of the controversy here. We have Jonathan and then Marita.

OLIVIER CRÉPIN-LEBLOND:

And Olivier as well, please.

JONATHAN ZUCK:

Yeah, sorry, I just had to come off mute. I guess my question was back on the next slide when you were asking for other purposes and whether or not the discussion of – I don't know what [inaudible] like commerce [and] this whole secondary market in domain names, etc., has existed. There's been a lot of discussion about how WHOIS is used to figure out who owns something because you want to try to buy it or anything like that. Has that question come up, or is everybody just letting those guys go?

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ALAN GREENBERG: Except in one vague issue we'll talk about later, and that's in domain name transfer, it has not come up at all.

JONATHAN ZUCK: Interesting, because that's the primary reason I use WHOIS, so I was curious whether [that did come up,] but I don't feel strongly about it. So I don't know if others do or not.

ALAN GREENBERG: Interesting issue. Marita, please go ahead.

MARITA MOLL: Okay, here I am. Mute and unmute, yes. I have two questions. One of them is in these numbered purposes, I think there are six or seven of them, I wanted to know how many, which one of these are agreed upon by everybody and which ones typically are not agreed upon. That was my one question.

My other question is about the accuracy issue. If I have moved and changed my name for personal protection reasons, that would mean that probably, the information under my domain name is incorrect, but my e-mail is still correct. My question is maybe I don't want my correct name out there. Is that the kind of discussion you're having about accuracy or not?



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ALAN GREENBERG:

Well, that was one of the questions I mentioned that is not clear. The GDPR very clearly mentions accuracy from the point of view of allowing the registrant, the data subject to correct their data if they become obvious. So in other words, if you said your name was Marita and I entered it as Marika, you have a right to say, "That's not my name, I want it changed." And similarly with any of your other information. It is less clear whether we – that you say your name is the classic Donald Duck and we realize that's not really your name or you enter a fictitious address which doesn't exist based on the rules of how addresses or formed, or a phone number, does ICANN or the data controller – which might be the registrar or the registry – do we have the right to take action to try to correct that data? That's not clear.

HADIA ELMINIAWI:

I would just add one thing, that in relation for example to the address, the one thing that GDPR actually – GDPR does not define accuracy, so there's no definition in GDPR for accuracy. However, what Alan mentioned [of course] about the registrant's right, this is one thing. The other thing also is that the data must fulfill the purpose for which it is being collected.

So maybe it doesn't matter if your name is Marita or Marika for the purpose of the data being corrected, but maybe if you have your, for example, contact information or the unidentifiable e-mail wrong, maybe this would affect actually the purpose for which the data is being collected. And at this point, if it does actually affect the purpose for which it's being collected, then it needs to be accurate in this regard.

ALAN GREENBERG: Yeah. So that's an example of if you provide an e-mail address which for whatever reason cannot work, that's something that we can take action on. But making sure it's the correct e-mail address, something that may not be readily verifiable, is a different issue altogether. Is that any clearer, Marita?

MARITA MOLL: No, because what I'm getting at is, suppose I'm a woman who has a number of websites and is under threat, either domestic violence or god knows what, and I changed my name and I changed my address, but my e-mail was still the same, so the person who was running my domain, the registrar, could get in touch with me, but I didn't want other people to know who I was or where. Is that covered under –

HADIA ELMINIAWI: [That's a different issue, Marita.]

ALAN GREENBERG: GDPR says that personal data – and your address is clearly personal data – cannot be revealed without a reason that is legally justifiable. So it will not appear in a public WHOIS information if you are a natural person subject to GDPR. The question –

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MARITA MOLL: Not going to appear, period. So that's not under question. Yeah, okay. Thank you.

ALAN GREENBERG: Everything here is legal. Now, if you happen to reside somewhere in South America and you're using a registrar in South America, they are not subject to GDPR.

MARITA MOLL: Correct.

ALAN GREENBERG: That's not an easy statement, because there are some cases in which cases they would be subject there, but in the simple case, they're not. And obviously, you're not protected by this. If you are present in the European Union – and present, it's not citizenship, it's not anything else, it's you being there at the time that you register the name, then you are subject to GDPR and your data will – but it may be given out to somebody who has what is defined to be a legitimate purpose, so you may well find that that data is provided to someone under some conditions. Now, if that's not satisfactory, we have things like privacy proxy services which might address your particular issue.

MARITA MOLL: Okay. I get that. Thank you. The other question was –

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HADIA ELMINIAWI: [That's not what accuracy's about, yeah.]

ALAN GREENBERG: Yeah. Please go ahead. We're going to have to move on so we can't stay on this one, but quickly, what was your other question, Marita?

MARITA MOLL: [inaudible] was how many of these recommendations are agreed upon by the group [inaudible]?

HADIA ELMINIAWI: All of them.

ALAN GREENBERG: They are all agreed upon at some level. There are still questions that people are disagreeing, but we're passing them by the community to see to what extent does the community agree on them. So they all have some level of agreement. There's also some level of concern. Hadia, did you want to add something? And then we'll go to Cheryl and then close the queue.

HADIA ELMINIAWI: No, I totally agree with you.

ALAN GREENBERG: Okay.

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HADIA ELMINIAWI: But all purposes are more or less agreed upon.

ALAN GREENBERG: Cheryl.

CHERYL LANGDON-ORR: Thanks, Alan. From an end user, registrant point of view, I think it's important that wherever it belongs in these purposes, that the subject, in other words the actual natural person or entity that is the subject of the data is able to modify these identifiables, these identity points whenever and wherever they wish to. That indicates that there must be a mechanism by which letting a data controller know that a change is required that that change then percolates through to the other people who have access to that data for reasonable purposes. And I do have a reason for asking that that is attended to, but I won't go into the details of that. I will [inaudible].

ALAN GREENBERG: Thank you, Cheryl. As I said, a basic premise and integral part of GDPR is that a data subject has the right to change their data, period. There is no restriction, and the data controller and processors must allow that and must allow data to be corrected by the registrant. So that is not subject to discussion, that's part of the law. I'm told we have two other speakers who want to speak, Olivier and Sébastien, that I was not aware of. We will go to them very briefly. Olivier?

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OLIVIER CRÉPIN-LEBLOND: Thank you very much, Alan. Quickly, in the list of uses that you've provided, [inaudible] services?

ALAN GREENBERG: I'm sorry, Olivier, say that again. You got muffled for a moment.

OLIVIER CRÉPIN-LEBLOND: In the list of the uses that you have provided, does one cover use by domain reputational services?

ALAN GREENBERG: That depends on whether we can justify that their usage is appropriate. That's the third-party one, purpose number two or three, I don't remember which one, that says we can provide the information to third parties if there is specific use. Now, if a registrant – assuming we grant them that use, and the whole discussion of which third parties can get access under what conditions, we have not done yet. We've put a basic purpose in which will be the framework for it, but we have not discussed the specifics. But that would allow you to ask for information on a domain name. It would not allow someone such as the DomainTools to gather all the information about all registrations. It does not, for instance, allow you to look at a domain name saying, "This one is problematic, now tell me all the others that have the same owner or the same e-mail contact." So much of the work that is done by things like reputational services are not likely to be covered no matter how we do this. I'm not sure that's an answer you like, but –

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OLIVIER CRÉPIN-LEBLOND: So just as a comment, that's a nail in the coffin of domain names, because that just takes away all the trust in domain names. We'll just end up with tons and tons of spam and malware and so on. So it's not a good step forward.

ALAN GREENBERG: I didn't say I'm happy about it.

OLIVIER CRÉPIN-LEBLOND: Yeah. No, but it's not a good step forward, and I think that in a comment, we probably need to address that. That's all. Thanks.

HADIA ELMINIAWI: Yes, because this has not been addressed yet. And actually, this is part of the [access exception.] And if it is brought up during the comment period in a really clear way and the importance of it highlighted – because again, we did not get into the details because the details are part of the access, and remember, we are not allowed to discuss access now.

OLIVIER CRÉPIN-LEBLOND: The problem, Hadia, is we're seeing a classic case of how things are done in ICANN. Things like this are divided in two. The first part, you can't address it because, oh no, that's going to be discussed in the second part, and then when you discuss it in the second part, you're

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then told, “Oh, no, but there's no – the first part has already been dealt with, they can't collect information for that.” So thanks.

ALAN GREENBERG:

Olivier, the issue is well understood by some. There are others who are saying there is no problem, we don't have a problem and the reputation services aren't really important. And the point is GDPR exists. It is not clear that we can come up with what is deemed to be a lawful purpose under GDPR to allow someone to have bulk data access. That's really what this translates to, and it is not clear how we're going to do it. Are there some of us who would like to see it? Yes. Are there others who are fighting that we not even discuss it? Yes. This is a real problem, and it becomes a problem that GDPR and WHOIS were not contemplated in the same sentence. We are where we are today. Sébastien.

SÉBASTIEN BACHOLLET:

Thank you very much, Alan. This question about – with this situation, [it is a decision taken to have the data we can have, if the] CCT Review will still be possible to run when it will come back in five years. Thank you.

ALAN GREENBERG:

It's not clear. To the extent the CCT Review relied on research that used bulk access to WHOIS, either bulk access or large numbers of specific accesses, which it did, it is not clear that those would be possible second time around.



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HADIA ELMINIAWI: And maybe a solution for that would be the research purpose that we did mention at some point. So that one allows – yeah, because [inaudible]

SÉBSATIEN BACHOLLET: I –

ALAN GREENBERG: Go ahead, Sébastien.

HADIA ELMINIAWI: So right now, without purpose – yeah.

SÉBSATIEN BACHOLLET: Okay. Just to say that we need to take that somewhere in our comments, I think it's important. But Jonathan must have more information on that than I have. Thank you.

ALAN GREENBERG: We will try to, but please, this is a long thing. To the extent that we miss something as we go forward, we're relying on people to keep us honest. Alright. Eduardo asked privately, are we trying to come to consensus here? To the extent we can on simple issues, yes. This is the start of a process, it's not the end of it.

Alright, where are we? So we're on additional purposes. Recommendation number two, standardized access. Per the EPDP team

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charter, the EPDP team is committed to – this wording here is done carefully – is committed to considering a system for Standardized Access to non-public Registration Data once the gating questions in the charter have been addressed. Gating is who will be allowed to access it and when and why. This will include addressing questions, what are the legitimate purposes for third parties to access registration data, what are the eligibility criteria to access non-public data, who are the third parties that will be allowed to, and what data elements will they get?

In this context, among others, disclosure in the course of intellectual property infringement and DNS abuse cases will be considered. That last sentence was debated for hours because there were people who did not want to see the references to the specific parts, there were other people who feel that if we don't make the mention to them now, it will be too easy for other people to say later "You can't do that." So that sentence is there.

I would think this is one of the more important ones or At-Large to support strongly, that we not have limitations that will prohibit the kind of things we were just talking about. Hadia.

HADIA ELMINIAWI:

No, I have nothing to add. Thank you.

ALAN GREENBERG:

Okay. So I'm saying this is one I believe we're going to have to strongly support and make it as wide as possible going forward even though we're not talking about the details here. This is our opportunity to talk

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about how it might be used in the future. I'm assuming since no one is objecting it, we will have strong support that this be done going forward. There's other aspects of it that we'll be covering in a moment. I see one tick mark, I don't see any negatives, so I think we will be making a strong statement here and we'll see going forward.

Recommendation three, contractual accuracy requirements. This says that the EPDP team is recommending that the accuracy requirements associated with registration data not be affected by this policy, that is they not be weakened nor are they strengthened. Cheryl, please go ahead. Can't hear you yet. "Sorry, that was an error," she says. If staff could put her hand down. It's down. Alright.

Holly says, "Not sure about strong support." I need to consider that I know both John Laprise and Bastiaan will have things to say. Then people better say things soon, sooner rather than later. I don't see this as being – I guess, Holly, I'd be really interested in knowing why you think that we should change the accuracy requirements and presumably change them to be less rigid than they are now. Holly, please go ahead.

HOLLY RAICHE:

I wasn't talking about accuracy, I was talking about the previous slide. I'm strongly in favor of accuracy, but you were talking about recommendation two. That's where I was.

ALAN GREENBERG:

Okay. Sorry. I guess I'd really like to understand what the issues are [if someone is objecting to this.] Remember, we haven't established any of

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the reasons or said who can access the data, we're simply saying we will work on it.

HOLLY RAICHE:

I know that. And what you did say, we will go for as broad data as we can, as broadly as we can. I'm not sure what you mean by that and I'd certainly like to discuss what you mean by that. Not now, because we'll never get through the slides, but put a little marker there saying if you're talking about as broad access as possible, I have reservations about that. I'm not sure that bulk access is – I know certainly in Australia, bulk access is simply not allowed, and it's not allowed in the RAA.

ALAN GREENBERG:

To be clear, as Olivier said, we are in this – we made that decision. If that decision is changing, then someone better tell us soon, but we are in this try to protect the literally billions of Internet users who do depend on things like spam filtering and reputation services, and we are in this to try to make sure that those types of things can continue. If that is being withdrawn by the ALAC and that's not the reason we're not doing this, then –

HOLLY RAICHE:

No, do we – I mean –

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ALAN GREENBERG: We're not going to debate now. I'm simply [inaudible] if that is the case, then we may have a significant problem with participating in this at all.

HOLLY RAICHE: Well, as Jonathan said, for the discussions, we can do that later, but just –

ALAN GREENBERG: There is not a lot of later. This comment period ends in 20 days.

HOLLY RAICHE: I understand that.

ALAN GREENBERG: Jonathan, please go ahead.

GREG SHATAN: [inaudible] queue is open?

ALAN GREENBERG: Not really, Greg, unless – well, okay. Jonathan please, and then Greg, and then I'm going to go on to the next thing. We are only at slide 14 and I have about 50 of them.

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JONATHAN ZUCK: Yeah, sorry. I guess I was trying to address Holly's concern, because this recommendation two is just talking about what will get discussed. So having that be broad as possible seems to make sense. It's not the same thing as saying broad access to data. That's a leap ahead. This is literally just what should be open for discussion. And that seems like a no brainer to be supportive of having that be broad so that we're not relitigating that in part two of these discussions. So that everything's open for discussion, I think, is what this is about.

HOLLY RAICHE: Okay. I'm comfortable with that. I thought Alan was saying something more. But I'm happy with what Jonathan said.

ALAN GREENBERG: Greg, please, very quickly, and then we'll move on. We only have a half hour left in this call.

GREG SHATAN: Just briefly, I think when we do talk about bulk access, we need to distinguish between DomainTools [inaudible] which are trying to provide information that can then be passed on to fourth parties, if you will, and reputational services which analyze threats and the like using data but are essentially using it – while it may be bulk data, are not passing it on, are using it essentially behind the scenes for research purposes. So, the examples given of bulk access need to kind of bifurcate those two issues when we get there. But I agree the point now

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is just to leave the door open and not to have kind of proxy battles fought on things like breadth of discussion. Thanks.

ALAN GREENBERG:

Yeah. Thank you. There have been discussions that bulk access could be provide for instance by making the entity a joint controller and therefore they have very significant liabilities as to how the data might be used. That's been discussed. It's not settled, it's just saying someone raised that as a suggestion of a possible way forward.

Alright. Next one is the data elements, and now we come down to what are the elements, and to a large extent, if we go on to the next slide, they are unchanged. But I will note the following. There is no administrative contact there. the technical fields have been severely restricted. You'll notice there is no paper mail address, the fax number has been removed. There was very strong discussion from a number of parties that these fields be eliminated.

One of the issues that I have – and this is one where I believe registrant rights of significant import – is what happens with all of the hundreds of millions of registrations where those fields are filled in, and potentially filled in with unique values. If suddenly those fields don't exist, how is that going to be handled? And there's been no discussion whatsoever of that, and I believe from a registrant perspective, if data is simply – that is currently in the WHOIS is unilaterally removed by the registrar or registry, there might be issues there. Sorry, I thought I saw a hand. I did not, I guess. Hadia, please go ahead. Hadia, your hand is up.

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HADIA ELMINIAWI: Hello. Yes. I just wanted to add [inaudible] to mention that for now, the data that is optional, it's optional for the registrant to provide, but it's also – we haven't yet agreed whether it's optional or required from the registrar to provide it as an option to the registrant. And I think it's very important here to actually require from the registrars to have it as an option for the registrants, because unless we do that, registrars would never offer it as an option to the registrants, and in reality, all this optional data will not exist.

ALAN GREENBERG: Yeah, that's the subject of a few slides coming up though. Okay, we have no other [inaudible]

HADIA ELMINIAWI: Okay, sorry for that.

ALAN GREENBERG: Yeah. The EPDP is looking at – one of the issues in particular is, as I've mentioned, the technical contacts. Currently, we just have name, e-mail and phone number. We are looking at two different options. One is that it is optional. Well, we've used the term "optional" for these. Two different definitions of optional. One is the registrars must offer these data fields and the registrant can decide whether to fill them in or not. If they decide not to fill them in, then the registered name holder data will be used.

Yeah, there are very significant numbers of people who do have unique contact data for technical contact. We have an echo, if someone can



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find it, please. Those fall partly under large corporations for instance who may have a 24-hour service for technical contact, but for other things, they may have their legal office. Or small registrants where the web provider, the hosting service may be the technical contact.

The other option is the registrar can offer this at their option, and that's what Hadia was referring to, that is the registrar may choose not to and you have no option. You'll notice however that the proviso in one saying if the data is not there, what technical contact do you get, is not mentioned here. It is not clear if we take option two whether there will be a technical contact at all for this domain name.

So that is an issue, I think, that we need to be strong on, that for any domain name, there must be a technical contact provided. It may be anonymized, but it must be a technical contact provided. So that's one of the ones that I believe is something that is very important, and I'll pause to see if there's any comments on that.

We have a tick mark, we have no negatives. Alright, subject to whatever the comments that people are typing, I will go on to the next one. The EPDP recommends that contact information for billing and administrative contact should not be collected. Do you agree that this information should not be collected? The presumption is that you will no longer be able to provide it and it will no longer be provided to anybody. And I believe from a resistant rights point of view, we need to consider what happens with that unique data right now, how do we get – does the registrar need to get permission from the registrant to delete that data, or will that be done unilaterally? And I think that is an issue that should not be ignored.

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Alright. Cheryl says she believes the technical contact is a required field. Does definition number one of the slide above fill that in? That is you do not have to enter it, but if you don't, then the registrant contact information will be used in its place. Cheryl, does that meet your criteria of required?

CHERYL LANGDON-ORR: Cheryl [suspiciously] worryingly making odd noises. My gut reaction to that is no, I think it shouldn't be blank. I think when I said a required field, I meant a required field.

ALAN GREENBERG: Cheryl, if I told you there's not a chance in hell that that's going to be approved, does that change your position? That is defaulting to another field is probably the best we are going to see.

CHERYL LANGDON-ORR: Defaulting to another field is fair enough as a fallback. My concern then unfortunately becomes, to which field. If it goes to a registry or registrar-provided field as opposed to a registrant approved of field, then there are issues –

ALAN GREENBERG: It's the registered name holder data.

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CHERYL LANGDON-ORR: Registrant name holder data is okay then, providing that is what happens. I've certainly had clients who – I manage, I host a portfolio of things, right? For people. And I have these problems happen all the time. So I guess I'm biased. And when a registrar puts in their data, it's a bugger of a job to get it back to the registrant data in any of these fields. So if it's registrant data that it falls back on, then I guess my consumer and registrant issues are satisfied. Thanks.

ALAN GREENBERG: Remembering that people often use [age] and such [as] their web hoster to register the name for them, that's something we cannot change. Okay, so I think we came to a strong [inaudible] that this information must be collected for the technical. Billing and administrative, at this point it will not be collected or stored, and I believe our concern over what happens to the existing data is relevant. Holly, please go ahead.

HOLLY RAICHE: Yeah. I strongly think it should be collected, and there's no reason you can't have, say, an e-mail that says admin@ or just a phone number that gets technical help. You can do that without revealing personal information. But there's no way in fact you shouldn't have some kind of contact.

ALAN GREENBERG: Holly, we have a letter from the European Data Protection Board, that is all of the commissioners together, saying it is quite reasonable to collect

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administrative contact and point out that they can put a unique name in it, they can put a nonpersonal information in it. That notwithstanding, the group at this point has decided, without our explicit support, but there is a general consensus that these fields can be eliminated.

HOLLY RAICHE: I don't agree.

ALAN GREENBERG: Are there other people here who also don't agree in that we should have administrative contacts, or give the option for them, optionally being collected? Does anyone agree with Holly, or is Holly a lone voice?

HOLLY RAICHE: [inaudible] they should be collected.

ALAN GREENBERG: I'm sorry, I –

HOLLY RAICHE: Don't portray me as – I agree that this information should be collected, so I'm saying –

ALAN GREENBERG: That's what I'm saying, does anyone agree with Holly that the information on administrative and billing contact should still be

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collected – optionally be collected? At this point, they are gone. Marita, please go ahead.

MARITA MOLL:

Yeah. I think it sounds reasonable that there ought to be some point of contact. And I think – I'm not sure about this, but I think – I heard some discussion that the reason of objecting for this point of contact was that there was no way you could construct some point of contact that could not be tracked back to somebody. Is that the way you see it? Is that the reason why this is not being accepted?

ALAN GREENBERG:

No, that is – no. This is an issue of data minimization. That is you shouldn't collect data if there's no real need for it, and there are people who claim that virtually nobody uses unique addresses for administrative or billing contacts. Billing for instance is irrelevant because registrars who do the billing do not use that field to decide who to bill. So billing in particular is not relevant because the data that is called billing data is not used for billing. So we ask for it, but that is not what it's used for.

Administrative contact, in many domain registrations, the administrative contact is the same as the registrant data, so from a point of view of data minimization, which is a GDPR issue, it has been suggested that these fields are not needed and therefore should not be collected.

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MARITA MOLL: Okay. Thank you.

ALAN GREENBERG: Registrars are delighted to have less work to do. Hadia, please go ahead. And Jonathan is concerned we're getting too much into this topic which is not one of the more important ones. Hadia, do you wish to say something or not? You're muted. Alright, we'll go on to this one –

HADIA ELMINIAWI: Yes, I would just say one thing, that the argument that you said is why we got billing information [inaudible] rather than we were talking about the joint controller issue, they [inaudible] examples, which is the billing information as an example of why there shouldn't be a joint controller agreement. And you can see here how people use different arguments depending on what they want to reach.

ALAN GREENBERG: Yeah. Okay, let's go ahead on this. We have an e-mail list. If people feel strongly about this, please say it, because this is not one that we were going to put a big fuss up about, because it's simply not all that important from protecting user rights at this point.

GREG SHATAN: I would just [inaudible]

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ALAN GREENBERG: And the people who are protecting the registrant rights don't seem to care. So if it's an issue that people want to see, please, let's move it into the mailing list. Alright –

OLIVIER CRÉPIN-LEBLOND: Greg was [still] in the queue, I think. You'd never given him the floor.

ALAN GREENBERG: I did give Greg the floor at one point. I didn't hear a second request.

GREG SHATAN: Yes, no, I just made a request twice.

ALAN GREENBERG: Please go ahead then, quickly.

GREG SHATAN: Yes, I would just say that at least as far as admin contact, I do feel strongly. I think we should bifurcate this question. Billing contact is irrelevant, but admin is quite important, especially when you're dealing with legal person and not natural person's data. And we'll get to that discussion later, but right now, it seems like these roles are being established for everyone around the world and not just for natural persons located in the EU. [inaudible]

ALAN GREENBERG: I would like to get to that item, so may we?

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GREG SHATAN: Yes, but I'm just saying that we're talking now about data. We need to talk about [in all the purposes]. Thanks.

ALAN GREENBERG: If people feel that admin or billing contact information – and be specific about which fields – is important, please move that to the e-mail list. I'm just saying it's not one that Hadia and I had been planning to make a major issue about, but if there is one, then we need to get details.

Recommendation six, data should be moved to escrow providers. I don't think that's a controversial one, I don't think we need to talk about that more. Again, if someone puts their hand up, we will, but I think everyone wants to make sure the Internet continues if a given company goes out of business.

Recommendation seven, transmission of data from registrars to Contract Compliance. I think this is a very important one, and I believe we have to make sure that compliance not only gets, can get the data, but can get the data easily. Right now, if Compliance get a complaint about a domain name, they have to say, "Please registrar or registry, can you please give me the information?" And they have to wait to get it. They can't even do anything because they have no access whatsoever.

I believe that Compliance must have essentially the equivalent of what we had before, that if Compliance wishes to see data on a specific registrant, registration, that they should be able to have access.



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Otherwise, we are significantly increasing the workload on Compliance without any benefit to it, and from our point of view, we have always aid we want Compliance to be more effective, not significantly less effective.

Again, if there is an issue that we disagree on this, that's something I think we need to hear about very soon. I'll pause for a moment. Jonathan, please go ahead. You're muted.

JONATHAN ZUCK:

Thanks, Alan. I keep [forgetting whether] I need to go to my phone or [inaudible] But I'm in agreement on this, and I'm wondering if you have a sense of issues that are going to be controversial for this group that we might cut to that chase, those discussions, and then we create like a table that we circulate offline that says we plan to strongly agree with this, we plan to disagree with this, etc., that it gets that conversation going for the unexpected discussions, but I felt that coming into this call, you had some things that you thought we regna be controversial, and I feel like that's what we ought to really take advantage of [inaudible].

ALAN GREENBERG:

And Jonathan, I am identifying those as we go along. Please understand this presentation was requested very late in my Monday.

JONATHAN ZUCK:

I'm not trying to criticize you, I'm talking about how we should go forward right now, is if you have a sense of these three things are the things that are likely to be most controversial, [inaudible].

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ALAN GREENBERG: And that is what I'm doing as I'm going forward.

JONATHAN ZUCK: Okay.

ALAN GREENBERG: Okay. I wish I was more organized. This meeting is being held at 7:00 AM my time and the presentation was finished at about 1:30 AM. So we haven't had a lot of time for Hadia and I, to go over it and identify the focus issues in a more organized way. I apologize for that.

Data redaction. We recommend redaction of various elements, [we'll go] into details right now. These are the elements that we are currently recommending not be redacted. That is these will be available in any WHOIS entry. They're basically what you see in the current temporary spec with, one exception. That is it is the data which is either generated by the registrar – so registrar abuse contact and things – or the information that is required to make the domain work, the nameservers, the technical contact anonymized or through a webform, the registrant fields. The registrant field is only the country and the state or province and an anonymized e-mail address or webform. That is the data that we are currently requiring – we'll say will be required in the public WHOIS.

The fields that will be redacted and only available to selected people under selected rules under a selected process are the registrant name, the technical fields and the specific – the actual contact information.

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OLIVIER CRÉPIN-LEBLOND: Olivier.

ALAN GREENBERG: Not decided is organization. This is one that the temporary spec says is provided. There has been strong objection from the NCSG and some contracted parties to say we cannot – and some others – provide organizational name. For instance if my domain name is Alan Greenberg Incorporated, that has personal data in it, and therefore it cannot be displayed.

There is also a concern about organizations, women abuse organizations that some jurisdictions – not GDPR – say those may be treated as a legal person and information may be withheld from it. At this point, it is being debated and there is strong pushback, particularly from the NCSG, to say do not provide organizational name.

From my perspective, if you name your company after you, then it ceases to become personal information. The only purpose of having a company name is to use it publicly. And all jurisdictions provide you to have a company name which does not have your name in it, so I believe, as did the temporary spec, that organization must be something that's published. And Hadia wants to speak and Olivier also wants to speak. Hadia.

HADIA ELMINIAWI: So actually, it's a really quick comment. Because if we did provide – and I think also I join Alan in this, I do think that the organization should be

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provided as an option to the registrant, and we are already – right now, we are not identifying whether the registrants are natural or legal persons, and at the minimum, we do need to have the organization field. And again, it's only optional, so if a registrant does not wish to provide it, [he won't.]

So yeah, I do think so. Even for the arguments of the Noncommercial Stakeholder Group who are saying that some organizations would like for some [inaudible] regions to not provide their name, it's an option anyway. So those organizations can just leave it out.

ALAN GREENBERG: Thank you, Hadia. Olivier. We are ten minutes away from the end of the meeting.

OLIVIER CRÉPIN-LEBLOND: Thank you, Alan. Do I get this thing correctly then that if I go to Amazon.com for example, then there's no way that I would find out who Amazon.com is?

ALAN GREENBERG: If they have either not chosen to provide the field or those who say it should be redacted win the day, then yes, Amazon.com would have no attribution of who it is.

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OLIVIER CRÉPIN-LEBLOND: Okay. So I think that's the point. Leaving the option of not providing that field is one thing, but taking that field off altogether is another, and that would really be a terrible thing for domain names at that point.

ALAN GREENBERG: But do recognize I can register a domain name and put Amazon.com in my organization field.

OLIVIER CRÉPIN-LEBLOND: Yeah. No, that's fine. Well, [no, I won't say] fine, but it's[just for ecommerce providers –

ALAN GREENBERG: It's not a perfect world. Hadia, did you want to speak –

OLIVIER CRÉPIN-LEBLOND: For ecommerce providers to prove their legitimacy. There needs to be a way for them to prove their legitimacy, otherwise what we're doing is to kill ecommerce altogether and just keep ecommerce on the known platforms of Facebook and, well, Amazon happens to be one of those known platforms.

ALAN GREENBERG: Remember, Europe –

OLIVIER CRÉPIN-LEBLOND: [But that is quite a] significant thing, significant impact on ecommerce.

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ALAN GREENBERG:

Yeah. Remember, Europe has rules saying if you're doing commerce, your website must make it clear who you are. The rest of the world does not have such rules. Eduardo, I have no clue why if it's optional field it's a contentious issue, but it is. Let's go ahead, please.

Well, okay, that's what we've just been discussing, so I think we have strong support for publishing. In relation to facilitating e-mail communication between third parties and the registrant, the EPD team recommends that the current requirement in the temporary spec that specifies that a registrar must provide an e-mail address or webform with the relevant data but must not provide the actual contact email address or the contact remain in place.

I would suggest that we strongly push for saying if a registrar wants their real contact information to be published, it should be. That is something they can withdraw, but if they want it to be published, then they should be allowed to specify that their information be published, for just the reasons that Olivier has outlined. Is there any disagreement with that? Remember, this is an option to the registrant.

I see tick marks, I hear no objection. Recommendation 11, the EPDP team recommends registrars are required to retain information for certain periods of time. I don't think we have a major stake in the game of retention periods, and I don't believe this is something we need to weigh in on strongly.

Geographic location and legal person, legal versus natural. This is a big one. The At-Large has taken a strong position that has been fought

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tooth and nail by the contracted parties and the NCSG that we require people to identify whether they are legal or natural persons, and we give registrars a significant amount of time, potentially up to the ten-year renewal period, to establish all of these. I'll open the floor in a second, let just me ask the one question. We're talking about legal versus natural at this point. The one question that registrars ask is, what happens after the ten-year period or whatever've the renewal period is, they have not done that. Do their domains get suspended? What happens? Cheryl.

CHERYL LANGDON-ORR: Just making sure I come off mute instead of disconnect myself. I have a real issue with suspending under these circumstances, so yeah, we do recognize that things are sometimes not done, even in a ten-year period. There needs to be a mechanism – which is where accuracy for contact comes into an important issue – to rectify such oversights over suspension of a name. Thanks.

ALAN GREENBERG: Yeah. Remember, registrars do not want to have to contact their registrants.

CHERYL LANGDON-ORR: I understand registrars don't want to do a bloody thing other than get money for every name, but tough shit.

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ALAN GREENBERG: Okay. Cheryl, I believe you're saying that, yes, we should require that this be done, there should be a differentiation, and yes, registrars must come up with a way of contacting their registrants if necessary to establish it.

CHERYL LANGDON-ORR: Correct. Articulately put. Thank you.

ALAN GREENBERG: Thank you. That's a position we've already taken and At-Large has taken. We've taken it on behalf of At-Large. I don't believe there's any change at this point. The next question, which we are not going to have significant time to discuss but I believe must be discussed at our next CPWG meeting in earnest is geographic distinction. That is, should a registrar or registry be allowed to use GDPR rules where they are not called for?

That really means that we are redacting information on large numbers of registrants even if GDPR does not cover them. and there are a large number of cases where GDPR does not cover them. We have had arguments when we discussed this last that all registrants should be allowed to have the same level of privacy. Now, remember, at this point, the registrars and the NCSG – contracted parties and NCSG is pushing heavily that we not distinguish legal versus natural. That may end up coming to be, so we might be talking about all registrants in this case, not just natural persons.



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I don't see how we can take our position that we want information to be available to the maximum extent to protect against fraud and other misuses of the Internet and at the same time say registrars and registries can redact virtually all information in all cases. I have trouble putting those two together. Other people believe that we should come out on registrant rights on this one and say registrars may, at their choice, treat everyone as if they were subject to the GDPR. Do we have any initial comments here? We're not going to have time to come to closure on this discussion, but it's a really important one.

GREG SHATAN: Can I get in the queue, please?

ALAN GREENBERG: Yes, please.

GREG SHATAN: Yeah. I guess I'm first in the queue then. I would just say that I strongly agree with those points that you made, Alan, and I think we need to [inaudible] with regards to registrant rights, there seem to be six people sitting in the seat in the EPDP who are doing that and two who are covering the rest of the four billion. So I think we need to keep our focus straight on this one. Thanks.

ALAN GREENBERG: Thank you. As I said, when we first discussed this, there were a number of people within At-Large who strongly disagreed with you. Joanna

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asked, “Isn't the extraterritorial effect the very point of GDPR?” Yes, from GDPR's point of view, the European Union has no influence and no ability to even influence how registrants who are outside of the European union, without going to the detailed fine print there, are subject – the temporary spec gives registrars the ability of only having one set of rules and treating everyone the same. The question is, do we continue with that in the final policy, or do we require them to differentiate?

The contracted parties say it is virtually impossible to identify where you are. I would have thought that the country you say you're in is definitive, but registrars are saying, “No, we still may be open to liabilities because people – we may not be able to rely on the accuracy of that data to definitively say whether the subject is eligible or not.”  
Tijani, please go ahead.

TIJANI BEN JEMAA:

Thank you very much, Alan. I think the best is – and I expressed that before, the best is not to differentiate, the best is to have one way to treat all the registrants. Especially because it will be a mess for the registrar and the registries, and also because we will have kind of fragmentation of the WHOIS. We'll have a kind of WHOIS for some people and another kind of WHOIS for the other people. So I think that the best is to have all the registrant treated the same, because suppose tomorrow, Canada will impose fines on those who don't respect their rules. We will have to comply with their rules. Today, nobody cares about it because there is no fine. So in my point of view, this is a way to not have a fragmented WHOIS. Thank you.

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ALAN GREENBERG: Thank you. We have a fragmented WHOIS, we are there, whether we like it or not. In terms of other jurisdictions, we are looking at GDPR. It is very clear that there are privacy legislation in other jurisdictions. Some of it will no doubt be more stringent than GDPR, some will be less stringent. Ultimately, contracted parties are going to have to be able to react to the different laws that apply to them based on where they are and where their registrants are. I think that's a fact of reality, and that reality, because other jurisdictions may have different rules, I think is the exact reason why they should be differentiating, because they may need to differentiate because of those other countries' rules. And since we do ask for and publish at this point the country, I would have thought that is the definitive way in doing this. Hadia, please go ahead. Now, obviously, this is a very divisive subject. We're two minutes over. Jonathan, Olivier, staff, can we keep on going for another ten minutes or so?

YESIM NAZLAR: Hi, Alan. Yes, ten minutes extension is already confirmed. Thank you.

ALAN GREENBERG: Okay. Thank you very much. Hadia.

HADIA ELMINIAWI: I'll be really quick on this. I'll say that I would just note that the legal versus natural, up to the point we're speaking now, there is no whatsoever agreement [or convergence] on making that kind of

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differentiation, though I personally think that this is a big mistake and that it's the registrant's right, at least, to have it as an option to declare whether they are natural or legal persons, and because lots of legal registrants would actually want to be public. And again, I think that we need to make a strong recommendation with regard to this area.

Also, I would like to point quickly about the statement that maybe the registries and registrars side that it's [a red line for them] any new contractual requirements. And again, I think this is also a big mistake, because [they can state] whatever they want, but again, no group should put any kind of red line to the others. And if there are any limitations, those should have been mentioned in the charter and not later. Thank you.

ALAN GREENBERG:

Yeah. Thank you. Two points on that. You're commenting on natural versus legal, where I think we have a strong position. What we do need to develop, but not on this call right now is, do we have a position on the geographic differentiation?

In terms of the legal versus natural differentiation, the argument that has come back for contracted parties and NCSG is if you want your information displayed because you're a legal person, then you should pick a registrar who's willing to do that for you, period. In other words, there is a registrar somewhere in the world who is willing to make the differentiation, and if you pick that registrar, then you don't have a problem. I believe that's ICANN shorting its responsibilities, but that is the statement that has been made.

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So we're going to have to come back to geographic location differentiation at some time going forward. The recommendation on reasonable access says that registrars and registries must provide reasonable access, it has to be somewhat time-sensitive. The format of requests needs to be made. This essentially says that until we have something that is more resilient, that is the unified access model or something, we should continue to use the rules under the temporary spec.

Those rules, some parties have contested, are not working. The contracted parties say, "Oh, they work if you make the requests in the right way." People who are making the requests say, "No, there are some contracted parties who just don't answer at all." This is a debate which is going on. It's not likely to stop, but to be honest, I'm not sure what we can provide prior to a more unified access model on an interim basis. So I think we're looking for information on people's view on that also.

Joint controller we're not going to spend a lot of time talking about. As I said, there are legal discussions going on about who are the controllers, should there be – are there joint controllers, and if there are, should there be a single agreement between ICANN and all contracted parties? For instance, should ICANN be required to sign individual agreements with each registry and each registrar and negotiate these agreements separately and then manage them?

ICANN has said that would be an impossible thing for them or extremely expensive thing for them to do. Others on the PDP say it's the only way to go, we have to do that. I don't think At-Large has a large stake in this

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other than to make sure we not commit ICANN to something which will be exorbitantly expensive.

Data processing rules and responsibilities, there's a large section of the report that goes into this. We are not going to talk about it right now, but we welcome input if people want to delve into those sections.

Recommendation 15 says the UDRP and URS are going to have to be updated, and I think that is certainly true. I don't think it's an area that At-Large needs to weigh in on. again, there r intellectual property people who are trying to make sure that that world will continue.

There's a rights protection, which again is intellectual property rights largely but not exclusively, that we're saying we should instruct the GNSO council to make sure that that's factored in. So essentially, EPDP is trying to shed as much that can be put onto other PDPs as possible.

More specific things about UDRP and URS. Again, I don't think it's At-Large's battle. Although there are fraud issues related to it, but I don't think we're in a position to fight for the specifics.

This says we have to enter into agreements with the dispute resolution – dispute providers because they are now going to be handling data, and therefore we need to make sure they are following GDPR rules. That's probably true.

Are there other URS, UDRP issues? Again, I don't think this is an At-Large issue. I'm assuming people will disagree with me if they strongly disagree.

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OLIVIER CRÉPIN-LEBLOND: Alan –

ALAN GREENBERG: Yeah, please go ahead.

OLIVIER CRÉPIN-LEBLOND: Yeah. Alan, sorry, I don't have the document in front of me. Is there any section in there that deals with post-expiry domain names? I.e. someone fails to renew their domain name, it gets picked up by somebody else, and then that person remains anonymous, then effectively you've had your domain name stolen. Is there anything in there in any of these that touches on that?

ALAN GREENBERG: Yeah, the domain name transfer is relevant and we'll get to that in a moment. We're just going to be able to touch on it briefly.

OLIVIER CRÉPIN-LEBLOND: Alright. Thanks.

ALAN GREENBERG: But that's not a post-expiration issue, that is another problem. But it's related to transfer. Alright. 18 and 19 are – okay, transfer policy. We are there now on 18, 19 and 20. The current process by which transfer – rather, the way that transfer used to work is the receiving registrar would have to verify who the owner was through WHOIS. The receiving registrar now has no access to WHOIS.

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So the receiving registrar does not know exactly who owned the domain name, and therefore one of the key mechanisms to prevent domain hijacking, that is an inappropriate transfer, is no longer applicable. The procedure that's being used is very different than it was before, and I believe we should have a significant concern with this.

Now, registrars tell us that there are fewer complaints about hijacking because the lack of WHOIS makes it harder to identify who a domain name is owned by and therefore hijacking is that much more difficult. If I don't know that Olivier owns a domain, I find it harder to perhaps get Olivier's credentials and masquerade as him and say I want the domain name transferred.

So I believe that we need a very careful review of the transfer policy, with some experience, nine months into the temporary spec or so, of just how is this working, is there a higher incidence of domain name hijacking, are there other problems that have occurred? And I don't think we can make decisions at this point to say just leave it the way it is today without a careful review of the situation. So I think this is a registrant issue that must be pursued carefully.

So certainly, my recommendation is that this is something that we don't just blindly accept because the registrars say it's easy, but look into with much more care. Again, I will pause for a moment. We are at the 12-minute mark now. We are just about finished the presentation, however.

Joint processor, data processing agreements. The contracted parties, the escrow providers and emergency backup registry operators will



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have to sign agreements. I don't think that's a controversial one. We're going to have to look at all of the policies.

The only one that I think is of interest there is the Thick WHOIS policy. At-Large came out very strongly in supporting Thick WHOIS as a more reliable way of having registries provide data than registrars. The registries have in the past proven to be a more reliable party with which to contact. Because they have stake in the game, they want to keep their registries, whereas a lot of relatively smaller registrars who have not necessarily acted in the best interest of all parties. So we came out very strongly in the form of Thick WHOIS. I believe that that is significantly in danger, and I think we need to push heavily in this one to make sure that we continue with that. That's not a given right now. At this point, it's not at all clear how that will unfold. And that's it.

Jonathan and Olivier, I don't know how we're going to continue this. There are other policy issues that At-Large needs to look at, so we can't devote every one of these meetings to the EPDP, but there's still a lot of work to be done. We just grazed the surface of this. Now, Hadia and I, with the support of the group, will work on a first draft response, but as I said, it's going to be really important on the contentious issues, and we'll identify which those are that we have explicit support.

Tijani has his hands up. I'm going to turn it back to Jonathan at this point, and since we are officially way out of time, but Jonathan, I'll let you take the queue if you believe there's time, or to do any wrap-up.

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JONATHAN ZUCK:

Thanks, Alan. And Thanks for all your work on this, you and Hadia, and your participation in this. Obviously, it's a ton of work trying to fight the good fight in a pretty contentious environment. So I'm still inclined to try and figure out what we believe are the contentious issues within At-Large and try to resolve those. I don't know what the best way is to identify them. Is there a first step that's just an outline of the comment that says, "Here's the questions and here's how we think we're responding to them" in a very brief, bulleted form so that people can react to that and self-identify as being concerned about those responses, I'm curious if you have some idea. I hate to have you jump all the way to a draft only to have people raise issues. I'm hoping to try and raise them sooner rather than later so that we have more extended conversation on fewer topics if that's possible.

ALAN GREENBERG:

Yeah. Jonathan, if I may. I don't believe we have any choice but to go to the draft. This document is – I believe the comment document that we have to fill in, which is a Google doc, I believe is 38 pages long before we start filling in sections which might expand. So this is not something we can do at the last moment.

So I believe we need to start working on that. We will identify the issues that, A, we believe that At-Large should take a strong position on because we believe they may be contentious and we want to be able to say this is an At-Large position and not an Alan or Hadia position. We may not be able to come to closure on all of those.

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And the second is I think we need to identify the issues specifically where we believe there is contention without At-Large so we can identify them and get the discussions out in the open. So we will do that, but it is going to be – it has to be in the context of the full set of answers, because I don't think there's any other way of approaching it.

JONATHAN ZUCK: Okay.

ALAN GREENBERG: And just for the record, when we volunteered for this, we were told up to 30 hours a week. In the last few weeks, based on getting the interim report out, it has been that. I think two weeks ago, we had a record of about 12 hours of meetings that week, and that's just the meetings. Back to you.

JONATHAN ZUCK: Thanks, Alan. I don't want to take anything away from your effort in this, and maybe we can take this online. I just want to find a way to boil some of this down so that we are providing the most value, if possible, to you. That's really my objective here. So let's maybe take that conversation offline about how we can identify those topics, and then on this call, figure out three things that we really need to drill into to make sure we have consensus on that kind of thing. That's all. So I'll circle back with you offline.

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ALAN GREENBERG: Okay.

JONATHAN ZUCK: Tijani, what did you want to speak on?

TIJANI BEN JEMAA: Yes. Thank you very much, Jonathan. And really, thank you, Hadia and Alan for this presentation. It is very informative. And in my point of view, this is not a CPWG session, it should be an ALAC the whole community session, because you did a presentation, it was useful for everyone, and the decision should be the general ALAC, not of this working group. So the best is that all – but now it is finished, I will not speak about it anymore.

ALAN GREENBERG: Tijani, may I respond to that? We were told that all such discussions should take place under the context of the CPWG. So we're just following marching orders.

JONATHAN ZUCK: Okay. Let's not have that conversation.

TIJANI BEN JEMAA: Yes, I know [inaudible]

JONATHAN ZUCK: Okay.

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TIJANI BEN JEMAA: This is not – now we need a way forward, and I think that the first thing is to have an e-mail to the whole community to tell them that we had this presentation and now we are in a better position to perhaps respond to those questions, please try to respond to them. It shouldn't be the work of us, of a few people, it should be the work of all people. And thank you, Alan, to start filling the forms. And we need every one of us – and I will do that – every one of us should have read that and tried to fill it also so that next time, we will try to come to closure to, especially to points that are controversial. Thank you.

OLIVIER CRÉPIN-LEBLOND: Olivier.

JONATHAN ZUCK: Thanks, Tijani. Olivier, you –

GREG SHATAN: Can I [inaudible] briefly?

OLIVIER CRÉPIN-LEBLOND: Yes, thanks, Jonathan. May I just suggest an action item that since now we have a recording, an Adobe Connect recording of this session, we ask for this to be publicized on the ALAC and the At-Large mailing lists for people to be able to go and watch it? Thanks.

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ALAN GREENBERG: Thank you. And as Hadia pointed out in the chat, there is a webinar tomorrow at 14:00 UTC. It is on the At-Large schedule, take a look at it. It is not clear to me what the content of this webinar will be. There was significant discussion on that on our EPDP meeting yesterday. Whether it will be substance or talking about the process of how we got there, I'm not sure. One thing was proposed, and there were strong suggestions that a lot more substance be added to it. I do not know how this has unfolded. But I do suggest regardless of what the content is, it will be worth attending.

JONATHAN ZUCK: Definitely. Let's do what we can to promote that to all four squares of the At-Large so that they can get the necessary background for these conversations. Okay, so we're way over time. I'm going to go ahead and wrap up this call –

GREG SHATAN: I had asked to be in the queue.

JONATHAN ZUCK: I'm sorry, Greg?

GREG SHATAN: Yeah. I just very briefly wanted to mention that there is a Word version of the Google form, so that should serve as a working document since the Google form can't be saved and come back to later. Thanks.

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JONATHAN ZUCK: Okay. Thanks. Yeah, we'll try to put out some information on the list as well. Alright, folks, thanks everyone for your attention. Thanks Hadia and Alan again for all of your efforts on this, and we'll keep chipping away at this.

ALAN GREENBERG: Okay. Thank you.

JONATHAN ZUCK: Thank you.

UNIDENTIFIED FEMALE: [inaudible]

UNIDENTIFIED FEMALE: Thanks, everyone. Bye.

YESIM NAZLAR: Thank you all. This meeting is now ended. Have a lovely rest of the day. Bye.

**[END OF TRANSCRIPTION]**