

Adobe Connect: 27

Alan Greenberg (ALAC)	Hadia Elminiawi (ALAC)
Alan Woods (RySG)	James Bladel (RrSG)
Alex Deacon (IPC)	Kavouss Arasteh (GAC)
Amr Elsadr (NCSG)	Kristina Rosette (RySG)
Ashley Heineman (GAC)	Kurt Pritz (Chair)
Ayden Férdeline (NCSG)	Leon Sanchez (ICANN Board Liaison)
Ben Butler (SSAC)	Lindsay Hamilton-Reid (RrSG Alternate)
Benedict Addis (SSAC)	Marc Anderson (RySG)
Collin Kurre (NCSG Alternate)	Margie Milam (BC)
Diane Plaut (IPC)	Mark Svancarek (BC)
Emily Taylor (RrSG)	Milton Mueller (NCSG)
Farzaneh Badii (NCSG)	Rafik Dammak (GNSO Council Liaison)
Georgios Tselentis (GAC)	Stephanie Perrin (NCSG)
	Thomas Rickert (ISPCP)

Guests:

David Plumb (CBI)
Gina Bartlett (CBI)

On Audio Only:

None

Apologies:

Matt Serlin (RrSG)
Julf Helsingius (NCSG)

Audio Cast (FOR ALTERNATES AND OBSERVERS)

Peak: 11 joined

View Only Adobe Connect:

33 joined

Staff:

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

AC Chat:

Andrea Glandon: (10/11/2018 07:03) Welcome to the EPDP Team meeting #19 held on Thursday, 11 October 2018 at 13:00 UTC.

Andrea Glandon: (07:04) Wiki Agenda Page: <https://community.icann.org/x/LQWrBQ>

Ayden Férdeline (NCSG): (07:53) Hi all

Collin Kurre (NCSG): (07:58) Greetings

Rafik Dammak (GNSO Council Liaison): (08:00) hi all

Ashley Heineman (GAC): (08:00) Heavy breathing on the line.

Kristina Rosette (RySG): (08:03) yes, collaboration

Farzaneh Badii (NCSG): (08:06) I have to have a chat with Benedict :)

Emily Taylor (RrSG): (08:11) Sure!

Georgios Tselentis (GAC): (08:11) It would have been much more productive to have the input earlier than 44' before the meeting

Amr Elsadr (NCSG): (08:11) Can we have the Ry/Rr Purpose B doc displayed in the AC room?

Amr Elsadr (NCSG): (08:12) Thanks.

Kavouss Arasteh (GAC): (08:13) Georgios+1

Amr Elsadr (NCSG): (08:16) @Alan: If you believe this to be more of an ICANN purpose than a Ry/Rr purpose, how is 61b applicable? I hope I understood you correctly.

Lindsay Hamilton-Reid: (08:17) I do not think B is an ICANN purpose.

Kurt Pritz: (08:17) @Georgios, I agree but when I receive a document from someone at 5:15AM her time, I gain an appreciation for the difficulty and hard work that went into it. We are working to a tight time frame. (I now you know all this)

Georgios Tselentis (GAC): (08:18) sorry have to drop and reconnect -no audio

Kavouss Arasteh (GAC): (08:18) Kurz ,It is not your problem, the comments directed to the author or submitter of the document

Kavouss Arasteh (GAC): (08:19) May i respectfully request the speakers to kindly slow down and speak slowly

Thomas Rickert (ISPCP): (08:23) Hi all! FYI - I am only in the adobe without audio at the moment Will hopefully be able to join audio soon.

Stephanie Perrin (NCSG): (08:25) You are missing a steady stream from Allan at high speed.....perhaps need to listen to the recording later...noone will volunteer to transcribe here because we cant type fast enough to keep up.

Stephanie Perrin (NCSG): (08:25) (Woods that is)

Collin Kurre (NCSG): (08:26) Twas quite fast and I'm a native speaker

Mark Svancarek (BC): (08:26) I could not follow it all

Alan Woods (rysg): (08:27) sorry stephanie ... my husband also gives out to me for speaking too fast as he is perfectly fluent in English...it's not his 1st language! :) I should know better

Stephanie Perrin (NCSG): (08:27) It was very thorough and worth listening to again, in my view.

Kavouss Arasteh (GAC): (08:27) What about the non native speaker?

Ashley Heineman (GAC): (08:28) I agree with Emily, that access is a subject of a later exercise, but I think what we continue to miss is the purpose of "facilitating" which isn't the act of providing access, but collecting the information and having a mechanisms in place that would ultimately permit access. So, the purpose (as I see it) is that of ICANN and the contracted parties. the lawful basis of access for third parties is an issue for a later discussion.

Stephanie Perrin (NCSG): (08:29) Since we have a letter from the DPAs saying law enforcement access is not a valid purpose (Kohnstamm, prior to 2013) I think we have a good hint that it would not be valid.

Kavouss Arasteh (GAC): (08:29) I was at a meeting till 12,30 then ran quickly and arrived 1255 ,logged and had not the opportunity to read the doc. I am unable to follow this discussion

Lindsay Hamilton-Reid: (08:29) Agreed Stephanie. That's why I don't see why this should be a purpose.

Kavouss Arasteh (GAC): (08:30) DPA arguments are not accepted by me

Alex Deacon - IPC: (08:31) +1 Ashley. this is an important distinction IMO.

Kavouss Arasteh (GAC): (08:31) If law enforcement is not a purpose then what is it?

Mark Svancarek (BC): (08:31) +1 Ashley.

Lindsay Hamilton-Reid: (08:34) What did you mean Kavouss? DPA arguments?

Georgios Tselentis (GAC): (08:34) @Ashley, all: I remind we spent also almost a day at LA agreeing using the word ICANN "enabling"

Alan Woods (rysg): (08:35) Of course take the time... I think it completely fair.

Kavouss Arasteh (GAC): (08:35) From the very beginning NCSG claiming that law enforcement was not a purpose without and legitimate and valid arguments

Emily Taylor (RrSG): (08:35) +1 to what Margie is suggesting. Ppl have not had time to read and digest the document prior to this meeting, and would be more productive to leave substantive discussions until a later meeting

James Bladel (RrSG): (08:35) I note that we continue to cite some language from the ICANN bylaws, but it's worth noting that the context of this language is attached to reviews associated the launch of new gTLDs.

Kristina Rosette (RySG): (08:36) Totally support Margie's request for more time.

James Bladel (RrSG): (08:36) Agree with Margie, we are all scrambling for time.

Kristina Rosette (RySG): (08:37) General request: When folks cite/refer to the Bylaws, would you please cite the section(s) you're referencing? The Bylaws are really long and cover a lot so the greater specificity is really important.

Lindsay Hamilton-Reid: (08:37) Do we need to make the point again that regardless of what is in the contract or bylaws, it doesn't make it legal.

Benedict Addis - SSAC: (08:37) Kavouss - no-one is saying that LE should not have access to data. Stephanie's argument is that processing {storing; checking; disclosing etc} data *simply* for LE's later requirements doesn't fulfil the definition of a purpose under GDPR.

Kristina Rosette (RySG): (08:37) Another general request: When we're referring to "objective" or "intention," let's try to avoid using the word "purpose," which only creates confusion, I think.

Stephanie Perrin (NCSG): (08:38) Law enforcement is not a purpose for ICANN to collect use and disclose information. Law enforcement is a constitutional right and reality, it is reinforced by international treaties. ICANN is not an organization established under the rule of law to do law enforcement. Unfortunately our cybercrime lawyer Tatiana is not on this call, but we would be happy to get back to you with the arguments on this.

Mark Svancarek (BC): (08:38) Do we need to make the point again that there is nothing inherently unlawful about the bylaws? The bylaws define the ICANN purpose under 6.1.f.

Thomas Rickert (ISPCP): (08:38) Disclosure to LEA needs to be discussed very nuanced. There are different legal implications based on the location of LEA and the contracted party. I have huge difficulties just to talk about disclosure to LEA.

Kavouss Arasteh (GAC): (08:39) pls describe in what aspect it does not meet GDPR PURPOSE?

Lindsay Hamilton-Reid: (08:40) @Mark, only if they are compliant with applicable laws but the approach seems to be to fit what we have to the law, rather than the other way around.

Lindsay Hamilton-Reid: (08:40) Agreed Thomas, it's not just GDPR.

Berry Cobb: (08:42) Workbook template 3.0, I will remove that dark green section. As David mentioned, it's only for easy reference.

Stephanie Perrin (NCSG): (08:43) ICANN does not need to replicate laws, not to beat a dead horse.

Mark Svancarek (BC): (08:44) ICANN is not duplicating laws, it is facilitating lawful activity on its platform

Lindsay Hamilton-Reid: (08:44) Why should disclosure to third parties be part of our contracts? I see no reason to have that as a contractual obligation. We already have methods of dealing with such requests.

Mark Svancarek (BC): (08:44) Facilitating is the operative word

Marika Konings: (08:45) Mark, if we can assist you with a dial out, please let us know.

Kavouss Arasteh (GAC): (08:45) iDID NOT HEAR mARK

Mark Svancarek (BC): (08:46) I got a new headset for the call and it still doesn't work - baffling

Hadia Elminiawi - ALAC: (08:46) mark just raise your voice and you will be ok

Farzaneh Badii (NCSG): (08:48) I can hear music

Collin Kurre (NCSG): (08:48) How soothing...

Diane Plaut (IPC): (08:48) Thank you Ashley!; Very well said and yes this is the exactly the point here

Georgios Tselentis (GAC): (08:48) sorry again my audio is not resolved I will try to type my comments

Ashley Heineman (GAC): (08:49) again.. this is not a 6.1.f basis for third parties. this is a 6.1.f basis for ICANN. Third party lawful basis is NOT the subject here.

Benedict Addis - SSAC: (08:51) Ashley +1

Margie Milam (BC): (08:51) Ashley +1

Alex Deacon - IPC: (08:52) regarding a more specific purpose, based on our discussion in LA - I suggest something along the lines of "Facilitate lawful access for legitimate 3rd party interests, including those related to consumer protection, cybercrime, law enforcement, DNS Abuse or potential or alleged intellectual property violations, to RDS data that is already collected and identified herein."

Benedict Addis - SSAC: (08:52) Access (when we get round to discussing it) will be under 6(1)f. And likely 6(1)c and 6(1)e too ... because LEA's can't use 6(1)f as you told me!

Georgios Tselentis (GAC): (08:53) @Alain drafters: did you consider several instances of the GAC advice (in which EU members also) where unanimously this purpose was ICANN's purpose?

Hadia Elminiawi - ALAC: (08:54) Totally agree it is not about access

Ashley Heineman (GAC): (08:55) Benedict... LEA can indeed use 6.1.f.

Ashley Heineman (GAC): (08:55) Just not the subject of this dicussion. :-)

Kavouss Arasteh (GAC): (08:56) Ashley, what is not subject to this document?

Kavouss Arasteh (GAC): (08:58) I commented to those views quoting DPA that LE is not purpose

Benedict Addis - SSAC: (08:58) Ashley I may have misunderstood. According to the ico: (f) Legitimate interests: the processing is necessary for your legitimate interests or the legitimate interests of a third party ... This cannot apply if you are a public authority processing data to perform your official tasks.

Thomas Rickert (ISPCP): (08:58) LEA cannot use Art 6 f

Thomas Rickert (ISPCP): (08:59) see: Point (f) of the first subparagraph shall not apply to processing carried out by public authorities in the performance of their tasks.

Thomas Rickert (ISPCP): (08:59) That is at least true for European LEA

Collin Kurre (NCSG): (09:00) Useful reminder there Alan, we're talking about "purpose" exclusively as defined by GDPR in the context of these worksheets

Amr Elsadr (NCSG): (09:00) @Alan: +1 on the issue of law enforcement.

Farzaneh Badii (NCSG): (09:00) why are we talk about LE now?

Farzaneh Badii (NCSG): (09:00) *talking

Kavouss Arasteh (GAC): (09:01) Thanks but these so called purpose created certain misiunderstanding

Ashley Heineman (GAC): (09:01) Thomas, see https://urldefense.proofpoint.com/v2/url?u=https-3A_ico.org.uk_for-2Dorganisations_guide-2Dto-2Dthe-2Dgeneral-2Ddata-2Dprotection-2Dregulation-2Dgdpr_legitimate-2Dinterests_when-2Dcan-2Dwe-2Drely-2Don-2Dlegitimate-2Dinterests_&d=DwIFaQ&c=FmY1u3PJp6wrcrwl13mSVzgfkbPSS6sJms7xcl4I5cM&r=k7uKdjSb7_ZjltyVqrCYHo_rKms9SFxImbYEJqG-

[y9I&m=GywmRvraHFMpPghg36Npl4tNPPAbe7LP12NPhaMQ8ZQ&s=3hKu1yBT44IDAMXfOdgWydlG9TFH21dlhZudEwKhYdo&e=](https://www.ietf.org/proceedings/99/slides/slides_09_02_01.html)

Marika Konings: (09:02) The charter says that the Initial Report should be shared with EDPB for input (if I am not mistaken)

Kavouss Arasteh (GAC): (09:02) Farzanehj, bec ause your colleague quoted an idea from DFPA saying that LE can not be a purpose

Marc Anderson (RySG): (09:02) The charter states that a copy of the initial report is to be sent to EDPB.

Kavouss Arasteh (GAC): (09:02) DPA sorry for missepelling

Thomas Rickert (ISPCP): (09:03) Ashley, this is what you find at the link you provided: Yes, in some instances public authorities are able to consider using legitimate interests as a lawful basis. However, if you are a public authority you cannot use legitimate interests as your lawful basis if the processing is in the performance of your tasks as a public authority. The GDPR explains the reason for this exclusion is because it is for the legislature to give public authorities the legal authority to process personal data; ie if you are a public authority you should only be able to process personal data in performance of your tasks if the law has given you authorisation.

Farzaneh Badii (NCSG): (09:03) oh my colleague is correct but I don't think it was related to the topic we are talking about

Hadia Elminiawi - ALAC: (09:03) sounds good Margie

Marc Anderson (RySG): (09:03) EDPBs are of course under no obligation to respond

Thomas Rickert (ISPCP): (09:03) @Margie again: I am happy to understand how it can be used for LEA, but maybe we should take that offline.

Stephanie Perrin (NCSG): (09:03) The data protection authorities are not there to test our legal interpretations. Just saying it.

Emily Taylor (RrSG): (09:03) + 1 to @Marc, and also they are likely to hedge their advice so that it's not a clearance, but advice

Georgios Tselentis (GAC): (09:04) You can try to ask the EDPB but you have to be very specific in your question

Ashley Heineman (GAC): (09:04) Thomas - so we are both right. :-)

Kavouss Arasteh (GAC): (09:04) Yers to the second point and no to the first point as I do not agree with these newly ionvented purpose in LA

Thomas Rickert (ISPCP): (09:04) @Ashley: Are we? Where LEA performs it's core mission (i.e. investigations), they cannot use it.

Ashley Heineman (GAC): (09:05) Ugh.. but they can use it for other reasons.

Thomas Rickert (ISPCP): (09:05) I think we are talking about LEA performing their core mission.

Stephanie Perrin (NCSG): (09:05) Before we pester the EPDP again, can we have the specifics of the questions that have already been asked of them in the many delegations that have gone to visit them, attend their conferences, and seek their advice?

Ashley Heineman (GAC): (09:05) Let's duke it out offline. :-)

Stephanie Perrin (NCSG): (09:05) (that was EDPB, sorry)

Margie Milam (BC): (09:05) Should we recommend as a policy that ICANN take it to the EDPB,?

Thomas Rickert (ISPCP): (09:06) In deed. Again, I am looking foward to understand your position better.

Hadia Elminiawi - ALAC: (09:06) the EDPB letter of the 5th of july does as well acknowledges that ICANN Bylaws require ICANN to assess the effectiveness of the gTLD registry directory service and whether its implementation meets the legitimate needs

Georgios Tselentis (GAC): (09:07) @Marika the EDPB will not comment on a report

Hadia Elminiawi - ALAC: (09:07) he EDPB letter of the 5th of July does as well acknowledge that ICANN Bylaws require ICANN to assess the effectiveness of the gTLD registry directory service and whether its implementation meets the legitimate needs

Kavouss Arasteh (GAC): (09:07) We are playing with words

Marika Konings: (09:07) In relation to lawful basis, the following from a letter from the Art 29 WP may be of interest: The WP29 wishes to stress that while a particular processing operation might serve several purposes (and therefore can be justified on more than one legal basis), each individual purpose can only be justified with reference to one legal basis.⁸ The WP29 therefore encourages ICANN to specify more clearly the envisaged relationship between the legitimate purposes of the processing and the relevant legal bases. For example, the Attachments to the Final Interim Model repeatedly refer to article 6(1)a of the GDPR (consent) as a basis for the processing, even in cases where the collection and/or retention of the relevant data elements shall be mandatory. As the WP29 has already indicated, consent shall only be valid to the extent that it satisfies the requirements of article 7 GDPR (including the absence of conditionality and the right to withdraw consent at any time).

Diane Plaut (IPC): (09:08) David - I think to your question - we should go back to the language for the purpose that we drafted in LA, as I said and Kurt said earlier and as Alex copied into the chat. It clearly identifies that purpose and third parties with legitimate interests as taken directly from the ICANN By-Laws and Mission

Marika Konings: (09:08) (this is the link to that letter:

Mark Svancarek (BC): (09:09) Building a platform, for lack of other words

Berry Cobb: (09:09) RE: lawful purpose assignments to our purposes, yes it is difficult. Thus why the next step after purpose definition is to identify the processing activities under that purpose. That is where we will want to define the lawful basis. The group should try to agree on one lawful basis where possible. If agreement cannot be achieved then we document both sides of issue and send that out for public comment and hopefully input from the EDPB.

Kavouss Arasteh (GAC): (09:09) From the outset I expressed serious concerns about the actual meaning of Legitimate purpose and legitimate interest and the nuance between the two

Alex Deacon - IPC: (09:10) Facilitate lawful access for legitimate 3rd party interests, including those related to consumer protection, cybercrime, law enforcement, DNS Abuse or potential or alleged intellectual property violations, to RDS data that is already collected and identified herein.

Mark Svancarek (BC): (09:10) "reviscerate"

Collin Kurre (NCSG): (09:10) Important to remember that seeking clarity on interpretation and enforcement from EDPB or other authorities isn't a foolproof solution. example: longstanding gray zone around EU/US data transfer regimes. I think the closer we can get to the spirit of the regulation (e.g., protection of privacy), the more likely the solution will be accepted

Margie Milam (BC): (09:10) @Thomas - once we come up with a policy - ICANN writes to the EPDP that notes that we followed their advice and developed a more detailed policy, and asks whether this new policy addressed the concerns that they raised? Although I recognize they don't have to respond - if they do - it would remove the risk

Alan Greenberg (ALAC): (09:10) Unviscerate!

Diane Plaut (IPC): (09:12) David - these are words taken directly from the By-Laws and Mission and we could add the secure, resilience language back in as we had originally proposed in LA

Ashley Heineman (GAC): (09:15) The access part is not the subject. This is just a purpose to put the pieces together. We all recognize that the act of providing access is thorny and we'll get there later. Nothing in this purpose "REQUIRES" providing access.

Benedict Addis - SSAC: (09:15) Can anyone tell me if my hand showing as up?

Rafik Dammak (GNSO Council Liaison): (09:16) @Benedict yes it is

Benedict Addis - SSAC: (09:16) Ta Rafik :)

Hadia Elminiawi - ALAC: (09:16) No benedict it does not show

Marika Konings: (09:17) it is back again Benedict

Marika Konings: (09:17) looks like you are on mobile so whenever your connectivity has the slightest drop, your hand will go down.

Kurt Pritz: (09:18) @Emily - to what extent would Joint Controller Agreements address the concerns you raised about ICANN publicly asserting its role? (maybe none - maybe I am off here)

Collin Kurre (NCSG): (09:18) And also problematic in terms of ICANN's mission, surely!

Ashley Heineman (GAC): (09:19) This point is.. ICANN can require contracted parties to collect the data and to put in place a mechanism and processes to permit access.

Stephanie Perrin (NCSG): (09:19) Thanks Emily.

Margie Milam (BC): (09:19) But what about the GAC advice that notes the public interest served by WHOIS?

Margie Milam (BC): (09:19) there is recognition by EU

Benedict Addis - SSAC: (09:20) propose some compromise text, based directly on GDPR: https://urldefense.proofpoint.com/v2/url?u=https-3A_ico.org.uk_for-2Dorganisations_guide-2Dto-2Dthe-2Dgeneral-2Ddata-2Dprotection-2Dregulation-2Dgdpr_legitimate-2Dinterests_when-2Dcan-2Dwe-2Drely-2Don-2Dlegitimate-2Dinterests_-23purpose-5Flegitimate&d=DwlFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=k7uKdjSb7_ZjItyVqrCYHo_rKms9SFxImbYEJqG-y9I&m=GywmRvraHFMpPghg36Npl4tNPPAbe7LP12NPhaMQ8ZQ&s=ysRgQH2NZA3H0jkDUYNEWqylFhzn3uHUFqA393GU4I&e=

Collin Kurre (NCSG): (09:21) It seems like GAC, ALAC, and NCSG all have differing interpretations of what's in the public's best interest, so I'm not sure if that's sufficient as a stand-alone argument. Better to tease out the value trade-offs at hand than cite such nebulous concepts imho

Emily Taylor (RrSG): (09:21) @Kurt - this is a point of active discussion :)

Diane Plaut (IPC): (09:21) Exactly - to the discussion yesterday regarding putting the appropriate legal framework in place - it would address these clearly needed and repeated blocks and provide the legal clarity needed in relation to the respective parties rights and responsibilities

Diane Plaut (IPC): (09:22) The above is in reaction's to Kurt's comment

Stephanie Perrin (NCSG): (09:23) Margie, there is not the same recognition by the data protection authorities. If you can point me to where they have said it is ok for ICANN to set up a repository for easy access to personal information for third parties and law enforcement, I would be much obliged.

Benedict Addis - SSAC: (09:24) So 1) Fraud prevention 2) network and information security 3) indicating possible criminal acts of threats to public security

Alan Greenberg (ALAC): (09:24) Benedict's suggestion sounds like it might address our needs.

Ashley Heineman (GAC): (09:24) From the EDPB July letter to ICANN: "the expectation of the EDPB towards ICANN to develop a WHOIS model which will enable legitimate uses by relevant stakeholders..."

Diane Plaut (IPC): (09:24) Benedict I think this is a very interesting proposal the question is whether it is specific enough

Alan Greenberg (ALAC): (09:24) At least it is not repeating the same arguments that have led us into this rather circular (ie repetitive) discussion.

Leon Sanchez (ICANN Board Liaison): (09:25) It seems to me we are at an overlap of purposes between those of ICANN and some third parties. What was originally thought to be a purpose for ICANN in order to fulfill its mission, has happened to coincide with the purposes of third parties to a point that the line dividing each entities purpose has faded to a point in which third parties' purposes apparently override ICANN's purposes when in fact what could be happening is just that this overlap blurs this line

Hadia Elminiawi - ALAC: (09:25) Sounds good benedict

Kristina Rosette (RySG): (09:25) Correct - joint submission.

Emily Taylor (RrSG): (09:25) Correct, David

Alex Deacon - IPC: (09:25) OK - joint submission. thanks.

Kristina Rosette (RySG): (09:26) @Kurt, even if we agreed that JCA Is a path forward (and that's a subject of discussion), we still come back to Trang's 4 October email: "Accordingly, as liaisons from ICANN Org we are unable to convey an official ICANN position that differs from the Temporary Specification at this time. We will however continue to follow the EPDP Team's discussions carefully and supply whatever information we can to help advance the Team's discussions. "

Alan Greenberg (ALAC): (09:27) No. ICANN has an interest in ensuring that the DNS is usable and trusted. That is why we are here!

Alex Deacon - IPC: (09:27) +1 Alan G

Amr Elsadr (NCSG): (09:27) Trusted to me means that domain names resolve the way they are supposed to.

Margie Milam (BC): (09:27) +1 G Alan

Lindsay Hamilton-Reid (RrSG Alt): (09:28) Spot on Stephanie!

Alan Woods (rysg): (09:28) +1 Stephanie

Lindsay Hamilton-Reid (RrSG Alt): (09:29) Benedict, I completely disagree with you. How is that an ICANN purpose?

Georgios Tselentis (GAC): (09:29) +1 Benedict

Benedict Addis - SSAC: (09:30) Why do you disagree Lindsay?

Diane Plaut (IPC): (09:31) Thank you Alan G

Ashley Heineman (GAC): (09:31) The purpose is to develop a system that may permit access (on terms to be dealt with later). What is the legal concern here? What is the liability concern? I'd like to understand better.

Diane Plaut (IPC): (09:31) Benedict thank you for your thoughts you nailed your point

Amr Elsadr (NCSG): (09:31) @Benedict: Outsourcing implies contracting with third parties, giving them a mandate and (at a minimum) make them data processors. To my knowledge, this is not the case.

Leon Sanchez (ICANN Board Liaison): (09:32) I lost sound

David Plumb (CBI): (09:32) Stephanie, please speak more loudly

Ashley Heineman (GAC): (09:32) It is NOT an informal group.

Lindsay Hamilton-Reid (RrSG Alt): (09:33) I agree with Amr. I keep hearing about security, etc. but how is ICANN disclosing data they do not even possess a purpose?

Lindsay Hamilton-Reid (RrSG Alt): (09:33) Stephanie is explaining it extremely well.

Benedict Addis - SSAC: (09:33) I'd like to hear your take on it too.

Lindsay Hamilton-Reid (RrSG Alt): (09:33) That's why Benedict.

Collin Kurre (NCSG): (09:33) @Ashley I think it's because that's a double-barrelled purpose. One purpose is to develop a system (which involves collecting, storing, etc), and another purpose is permitting access (transmission). One is clearly acceptable under GDPR, but the other isn't.

Collin Kurre (NCSG): (09:34) Also recalling that we're using this very narrow definition of "Purpose"

Ashley Heineman (GAC): (09:34) But nothing REQUIRES providing access.

Lindsay Hamilton-Reid (RrSG Alt): (09:34) We already, under current laws, provide details to law enforcement and through other methods, also help with cybercrime and intellectual property infringement. This is not just an ICANN or domain issue.

Leon Sanchez (ICANN Board Liaison): (09:34) Stephanie your voice sounds very faded

Lindsay Hamilton-Reid (RrSG Alt): (09:34) No Ashley and nothing should.

Collin Kurre (NCSG): (09:34) Bingo!

Lindsay Hamilton-Reid (RrSG Alt): (09:34) Spot on Stephanie.

Ashley Heineman (GAC): (09:34) Amen, so what is the issue?

Ashley Heineman (GAC): (09:35) Folks are once again jumping to conclusions and not looking at the task at hand

Lindsay Hamilton-Reid (RrSG Alt): (09:36) That is not an ICANN purpose to do any of these things.

Ashley Heineman (GAC): (09:36) I'm sorry Lindsay, but I respectfully disagree.

Collin Kurre (NCSG): (09:36) The continued conflation of maintenance of and access to a database seems to be the issue

Lindsay Hamilton-Reid (RrSG Alt): (09:36) That's fine Ashley.

Ashley Heineman (GAC): (09:37) The EDPB recognizes ICANN's purpose, so why is it this group can't?

Amr Elsadr (NCSG): (09:37) Hey..., we didn't conjure "law enforcement is not an ICANN purpose" out of thin air. We were told so by data protection experts whose expertise we actively pursued to help answer questions on GDPR.

Collin Kurre (NCSG): (09:37) We might note that Stephanie has also worked in a DPA office, the only one in the EPDP group with those credentials if I'm not mistaken :)

Ashley Heineman (GAC): (09:38) No one said "LEA is an ICANN purpose."

Ashley Heineman (GAC): (09:40) Agreed Marc. Can we try going through the worksheet again?

Benedict Addis - SSAC: (09:40) Amr, that's a straw man. We're discussing controlled disclosure to third parties (and for a limited set of reasons, probably)

Lindsay Hamilton-Reid (RrSG Alt): (09:40) Why is it that up to ICANN to to that Benedict?

Kavouss Arasteh (GAC): (09:41) ICANN purpose is not LEA but it is to secure stability, security and resiliency of DNS which is connected also to LEA

Alex Deacon - IPC: (09:41) @lindsay - its up to ICANN to "facilitate" that.

Lindsay Hamilton-Reid (RrSG Alt): (09:42) Why though Alex? We already have processes in place to deal with these issues.

Benedict Addis - SSAC: (09:42) Yes Collin !

Benedict Addis - SSAC: (09:43) Lindsay not all registrars are as competent as you!

Benedict Addis - SSAC: (09:43) I should know, I run one ;)

Kavouss Arasteh (GAC): (09:43) Whatz about you david?

Lindsay Hamilton-Reid (RrSG Alt): (09:43) That's on you Benedict :-)

Lindsay Hamilton-Reid (RrSG Alt): (09:44) Couldn't ICANN talk about processes rather than facilitation?

Benedict Addis - SSAC: (09:44) Sure, what do you propose Lindsay?

Margie Milam (BC): (09:44) what is next week's call schedule

Georgios Tselentis (GAC): (09:44) @ David this is two steps back: if we define new purpose be sure that we revisit all workbook questions

Hadia Elminiawi - ALAC: (09:45) @Marc the EPDB did acknowledge ICANN's mandate and purpose in this regard in its letter as for the legal aspects we do have GDPR articles and recitals that back this up - however i do understand that registries and registrars need assurance

Lindsay Hamilton-Reid (RrSG Alt): (09:45) So rather than make it contractual but offer guidance on how to deal with these type of requests for those registrars who do not have processes in place?

Benedict Addis - SSAC: (09:46) Happy to work on some language. Thomas, Lindsay, Stephanie - interested?

Lindsay Hamilton-Reid (RrSG Alt): (09:47) Sure Benedict.

David Plumb (CBI): (09:47) thanks!

Hadia Elminiawi - ALAC: (09:50) Thank you all

Lindsay Hamilton-Reid (RrSG Alt): (09:50) Thanks all

Amr Elsadr (NCSG): (09:50) Thanks all. Bye.

Leon Sanchez (ICANN Board Liaison): (09:51) thanks everyone. bye

Georgios Tselentis (GAC): (09:51) bye thanks