Adobe Connect:

Alan Greenberg (ALAC)
Alan Woods (RYSG)
Ben Butler (SSAC)
Diane Plaut (IPC)
Emily Taylor (RrSG)
Georgios Tselentis (GAC)
Julf Helsingius (NCSG)
Kurt Pritz (Chair)
Margie Milam (BC)
Matt Serlin (RrSG)
Milton Mueller (NCSG)
Tatiana Tropina (NCSG alternate)

Audio Only:
None

Guest:
Gina Bartlett (CBI)

Apologies:
Farzaneh Badii (NCSG)
Kavouss Arasteh (GAC)

View Only Adobe Connect:
17 joined

Staff:
Caitlin Tubergen
Trang Nguyen (ICANN Org Liaison – GDD)
Andrea Glandon

AC Chat:

Andrea Glandon:Welcome to the EPDP Small Team A meeting held on Thursday, 10 January 2019 at 14:00 UTC.
Andrea Glandon:Wiki Agenda Page: https://community.icann.org/x/ko4WBg
Alan Woods (RYSG):nope. Clear to me.
Caitlin Tubergen 2:Yes
Caitlin Tubergen 2:Note: Page 2 is blank.
Alan Greenberg (ALAC):#8 in the detailed doc (from BC) seems to refer to collection of Tech Data and not this purpose.
Emily Taylor (RrSG):I thought so too @AlanG - it's a bit confusing
Milton Mueller:what is NOT convered by business and technical failure?
Matt Serlin (RrSG):+1 Milton

Emily Taylor (RrSG):I agree with Milton - plus, lots of other scenarios would be covered by 'other unavailability' such as 'did not answer the phone, or an email within 5 minutes'
Matt Serlin (RrSG):That's a compliance issue at that point
Alan Woods (RYSG):surely that a filure of the business
Alan Woods (RYSG):"faiure" ... and up to compliance to enforce
Milton Mueller:sounds like a business failure to me
Alan Woods (RYSG):not having a good day with typing lol
Emily Taylor (RrSG):Yes. It may be bad, but it's not a trigger for releasing registration data
Matt Serlin (RrSG):that's a business failure if they don't live up to their obligations in the contract
Emily Taylor (RrSG):I would think of a business failure as something rather more severe
Emily Taylor (RrSG):- like going bust
Milton Mueller:operational failure?
Julf Helsingius (NCSG):But then we need to define "substantial"
Milton Mueller:failure to perform?
Matt Serlin (RrSG):tying it back to the contract seems fine
Alan Greenberg (ALAC):Termination by ICANN is indeed neither a business nor technical failure but must be addressed by escrow.
Trang Nguyen (ICANN Org Liaison):It is also possible that the Registrar chooses to voluntarily terminate.
Julf Helsingius (NCSG):Emily: remember I am an engineer, not lawyer :)
Milton Mueller:agree with Emily about "past and present"
Emily Taylor (RrSG):@Julf :)
Alan Woods (RYSG):i don't see the issue with thinking a failure of your business equates with a the termination (forced). But that being said we can certainly be clearer too.
Milton Mueller:de-accreditation?
Milton Mueller:Does ICANN terminate people?
Emily Taylor (RrSG):@Milton - Yes, ICANN does terminate registrars, but de-accreditation would be a final step following a fairly long compliance process, typically, and it might be a bit too specific
Emily Taylor (RrSG):Not sure whether ICANN terminates people :)
Milton Mueller:ICANN, the Terminator
Georgios Tselentis (GAC):Operational dissruption Meaning anything that disrupts operation according to the contractual obligation
Emily Taylor (RrSG):I liked Margie's formulation of 'substantial inability to perform the registrar obligations under the contract'
Matt Serlin (RrSG):that text above from Emlily is good
Alan Greenberg (ALAC):I'm sure we can provide the correct words for ICANN cancelling the RAA.
Ben Butler (SSAC):agree with Emily/Margie/Matt
Emily Taylor (RrSG):@Georgios - the operational disruption could be a sort of drones at Heathrow airport sort of thing - terrible, but hopefully not too sustained or long-lasting
Diane Plaut (IPC):...or if the services are terminated or no longer operationally provided as stated in the contract
Alan Woods (RYSG): registry or registrar failure, accreditation termination, or accreditation relapse without renewal (this is from ICANwiki)
Milton Mueller:I am ok with 'inability to perform the registrar obligations under the contract'
Matt Serlin (RrSG):i do think tying it to the contract itself is critical
Milton Mueller:seems to cover everything not captured by business and technical failure
Georgios Tselentis (GAC):+1 Milton
Julf Helsingius (NCSG):+1 Milton

Alan Woods (RYSG):i do think we need to review what specifically the contracts state and not go beyond that!
Milton Mueller:sustained is better than substantial
Margie Milam (BC):sustained works for me
Julf Helsingius (NCSG):Agree with sustanined
Ben Butler (SSAC):agreeed. I like sustained inability...
Matt Serlin (RrSG):very good point Emily...it does need to be sustained for this to be invoked
Matt Serlin (RrSG):maybe add sustained in front of that Kurt?
Milton Mueller:sustained inability to perform the registrar obligations under the contract
Margie Milam (BC):and registry agreements too
Matt Serlin (RrSG):what Milton said :)
Milton Mueller:yeah we havev made it a bit complicated
Alan Greenberg (ALAC) 2:BVeing more specific IS more complicated.
Alan Greenberg (ALAC) 2:CC notices at https://urldefense.proofpoint.com/v2/url?u=https-3A__www.icann.org_compliance_notices&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=k7uKdjSb7_ZjItyVqrCYHo_rKms9SFxlmbYEJqG-y9I&m=phU9X9DPJUN74NcIL_2oUqKymtIuXvhl2ARR3DJXPbY&s=hR_OFwtUH0sk59QKy0JlE8_pRzTQBgyR6762Zvsola0&e=
Trang Nguyen (ICANN Org Liaison):ICANN org shared with teh EPDP Team is overview of data escrow arrangements, which may be helpful to this discussion: https://mm.icann.org/pipermail/gnso-epdp-team/2018-December/001115.html.
Emily Taylor (RrSG):The RAA language that Alan referred to is at 3.6 (2) (2) the data shall be released from escrow upon expiration without renewal or termination of this Agreement;
Alan Woods (RYSG):exactly
Trang Nguyen (ICANN Org Liaison):Conditions for release are also specified in escrow agreements, for example, Iron Mountain agreement https://urldefense.proofpoint.com/v2/url?u=https-3A__www.icann.org_en_system_files_files_iron-2Dmountain-2Drde-2Dtemplate-2D18jul18-2Den.pdf&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=k7uKdjSb7_ZjItyVqrCYHo_rKms9SFxlmbYEJqG-y9I&m=phU9X9DPJUN74NcIL_2oUqKymtIuXvhl2ARR3DJXPbY&s=RkWckqt8EDdOeuJzlfkEqvAYxUyfPc3tM08M0_e879I&e= (section 7).
Margie Milam (BC):can you repeat the language
Georgios Tselentis (GAC):I am lost with the wordsmithing: what is the current agreed text?
Alan Greenberg (ALAC) 2:Take the union of what the RAA says plus what the RA says.
Georgios Tselentis (GAC):Thanks Caitlin
Emily Taylor (RrSG):Thanks Caitlin. Very useful to see it
Diane Plaut (IPC):Very useful
Georgios Tselentis (GAC):add transition then
Milton Mueller:Does anyone think the amount of time spent on this is proportional to its significance?
Emily Taylor (RrSG):Having similar thoughts Milton
Tatiana Tropina (NCSG alternate):Milton certainly not.
Milton Mueller:I mean if you really enjoy wordsmithing or are getting paid for it....we can continue like this
Milton Mueller:fir several years
Diane Plaut (IPC):Could not agree more
Tatiana Tropina (NCSG alternate):if it goes like this, mighteasily take several years
Margie Milam (BC):yes
Milton Mueller:get it out

Milton Mueller:better
Matt Serlin (RrSG):that's an improvement
Emily Taylor (RrSG):OK by me
Ben Butler (SSAC):Good with option 2
Alan Greenberg (ALAC) 2:I can live with that. Just need to make sure ref to contracts refers to all of the ors
Emily Taylor (RrSG):but I don't think the agreements do define these things as 'unavailability' that's the problem.
Emily Taylor (RrSG):I think we know what we mean but we don't quite have the language there
Alan Greenberg (ALAC) 2:@Emily, correct, but the RA does have other reasons that are not easy to summarize and unavialability covers it. And is delimed by the contract itself.
Julf Helsingius (NCSG):Purpose 6 was not on the agenda
Alan Woods (RYSG):this was of course what i started saying 1st time around so I approve of removing future reach.
Trang Nguyen (ICANN Org Liaison):There are other dispute resolution policies that utilize gTLD registration data. For example, the Transfer Dispute Resolution Policy. In addition, various registry charter dispute resolution policies (non-exhaustive list available here: https://urldefense.proofpoint.com/v2/url?u=https-3A__www.icann.org_resources_pages_dndr-2D2012-2D02-2D25-2Den-23ipdrcp&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=k7uKdjSb7_ZjItyVqrCYHo_rKms9SFxlmbYEJqG-y9I&m=phU9X9DPJUN74NcIL_2oUqKymtIuXvhl2ARR3DJXPbY&s=BqHo1GoKd2p7FvpOOkObSmK-o1cvLOsioqpKgM9109g&e= [icann.org]) might be affected. Does the EPDP Team intend to specifically limit this purpose to the UDRP, URS, PDDRP, RRDRP, and future policies only? If so, what should be done about the other dispute resolution policies? (Note that the web page provided is old and is currently undergoing review to determine if updates are needed).
Georgios Tselentis (GAC):Operationalize policies for resolution of disputes regarding or relating to the registration of domainnames (as opposed to the use of such domain names), for which it is established that the processing of personal data is necessary.
Milton Mueller:I like that Georgios
Milton Mueller:Georgios
Ben Butler (SSAC):Looks like transfer policy is on today's agenda for team B. Perhaps we can defer to their discussion
Milton Mueller:which DRP concerns use?
Margie Milam (BC):udrp
Margie Milam (BC):urs
Alan Woods (RYSG):"Operationalize "established" policies..." may remove the necessity for the list.
Milton Mueller:UDRP does not,
Margie Milam (BC):not true Milton
Tatiana Tropina (NCSG alternate):why would we include unindentified future processes in policy? I don't think it makes sense
Milton Mueller:No no no
Milton Mueller:this is not the same as purpose 2
Margie Milam (BC):can we repeat what the resolution is?
Alan Greenberg (ALAC) 2:@Milton, it could be as dispute processors and others are third parties. BUt regardless, we agreed it should be a separate purpose.
Margie Milam (BC):+1 Alan G
Diane Plaut (IPC):+1 Alan

Margie Milam (BC):prefer removing the parenthetical
Caitlin Tubergen 2:resolution of disputes regarding the registration of domain names (as opposed to the use of such domain names, but including where such policies take into account use of the domain names)
Caitlin Tubergen 2:Is this what you are referring to Alan?
Margie Milam (BC):thank you Caitlin
Margie Milam (BC):yes
Caitlin Tubergen 2:(found in Annex G-1)
Alan Woods (RYSG):trying to get my brain engaged on this lol
Alan Greenberg (ALAC) 2:@Caitlin, yes
Georgios Tselentis (GAC):@ Caitlin can you please put again as you did before the options on screen?
Alan Woods (RYSG):I'm OK with Operationalize only.
Matt Serlin (RrSG):If we can simplify down to just Operationalize I believe it would be better
Alan Woods (RYSG):not OK with establish as it goes to future again .. Sorry GoDaddy! :)
Diane Plaut (IPC):Therefore it seems that the wording only adds clarity and does not provide anything negative
Alan Greenberg (ALAC) 2:I'm not sure that coordinate is needed but can live with it. It is implied in that this isan ICANN purpose.
Matt Serlin (RrSG):again, we could wordsmith this for days...not sure it will improve anything really if we delete two of the three words...
Tatiana Tropina (NCSG alternate):+1 Milton
Milton Mueller:I didn't say that
Trang Nguyen (ICANN Org Liaison):There isn't an exhaustive list of dispute resolution policies. This page comes closest: https://urldefense.proofpoint.com/v2/url?u=https-3A__www.icann.org_resources_pages_dndr-2D2012-2D02-2D25-2Den-23ipdrcp&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=k7uKdjSb7_ZjItyVqrCYHo_rKms9SFxlmbYEJqG-y9I&m=phU9X9DPJUN74NcIL_2oUqKymtIuXvhl2ARR3DJXPbY&s=BqHo1GoKd2p7FvpOOkObSmK-o1cvLOsioqpKgM9109g&e=, but we note that it needs updating.
Matt Serlin (RrSG):if we're voting, i'd vote option 2
Ben Butler (SSAC):Agree with Milton.
Tatiana Tropina (NCSG alternate):but if there is no exhaustive list then why would we need to list them at all
Milton Mueller:very hard to hear you Alan
Tatiana Tropina (NCSG alternate):because if we say "namely" it would be absolutely restrictive
Julf Helsingius (NCSG):tariana +1
Tatiana Tropina (NCSG alternate):"policies for resolution of disputes" is specific enough IMO
Alan Greenberg (ALAC) 2:@Trang, there may not NOW be a list of ICANN originated Dispute Processes, but surely the list is finite and we could put it together. If we do need it.
Tatiana Tropina (NCSG alternate):if we are to list them we need the list of existing policies, but Milton has a good point here
Tatiana Tropina (NCSG alternate):because then we need to list only those that are relevant in the context
Trang Nguyen (ICANN Org Liaison):The PDDRP rules and the RRDRP rules each require the complainant (a trademark holder in PDDRP proceedings; an established institution in the relevant community in RRDRP proceedings) to “provide the name and address of the current owner of any at-issue domain name registration related to the dispute, to the best of the Complainant’s knowledge[.]” See PDDRP Rules, Section 3(b)(iv); RRDRP Rules, Section 3(b)(iv). The dispute resolution provider is required to serve

the respondent (the registry operator) with a copy of the complaint, and to retain information related to the provider's transmission of the complaint. Thus, these procedures may result in the complainant, provider, and/or respondent's processing of gTLD registration data. It should be noted that neither of these procedures have been used yet.
Trang Nguyen (ICANN Org Liaison):ICANN org would not process gTLD registration data in proceedings of either of these procedures because they are administered by independent dispute resolution service providers. However, if either procedure is used and ICANN org receives a panel's decision, then that decision would include gTLD registration data.
Milton Mueller:Published web Content is not PII
Milton Mueller:so it's easiest to just NOT LIST DRPs
Tatiana Tropina (NCSG alternate):Can't agree more with Milton
Trang Nguyen (ICANN Org Liaison):Same with URS/UDRP, if either procedure is used and ICANN org receives a panel's decision, then that decision would include gTLD registration data.
Tatiana Tropina (NCSG alternate):it's not about the easiest, Kurt, it's about most sensible
Milton Mueller:Alan W did not make a convincing point that we needed to list them imho. he said greater specificity but did not manages to explain how listing specific DRPs altered anything
Alan Greenberg (ALAC) 2:Is this REALLY worthy of our time??? No list or a complete list are functionally equivalent. Alan W sa sadi and I suspect Thomas would say that a list is better.
Alan Woods (RYSG):Sorry I would not support Diane'swording at all.
Julf Helsingius (NCSG):We clearly can't agree, so should this be left to the plenary?
Alan Woods (RYSG):It is exactly the opposite of why the Parentheses were added in the first place. Agree with julf ... let's defer this to larger group. :)
Alan Greenberg (ALAC) 2:I can live with options 2,and 3, and 4 if we remove/replace paren and add back facilitate.
Diane Plaut (IPC):Kurt - the point of the wording is not to focus on the litigation aspect but to make this broader but still inclusive
Alan Woods (RYSG):@milton ... possibly because it provides clarity to the data subject as opposed to asssuming that they ahve a perfect knowlowedge of ICANN policy.
Diane Plaut (IPC):To Alan G's points -even if litigation is not in issue - transfers, mediaition, etc. the list is not exhasutive and therefore adopting dispute resoltuions including those as listed in the ByLaws it would cover all
Alan Greenberg (ALAC) 2:I'd be glad to summarize this for the group.
Matt Serlin (RrSG):agree the preference is for option 2 with some outstanding questions for the larger group
Milton Mueller:you are right Emily
Margie Milam (BC):they are not inthe bylaws
Margie Milam (BC):+1 emily
Diane Plaut (IPC):ICANN-related disputes and other disputes outside of the ICANN disputes
Ben Butler (SSAC):I can live with 2 as-is
Diane Plaut (IPC):Yes, we are right Emily- I see that - the point was to broaden the scope beyond those covered to include as Trang said transfers and possibly mediation
Alan Woods (RYSG):perhaps we could remove the lsit and link to Consensus policies ?
Alan Woods (RYSG):sorry to add more lol
Caitlin Tubergen 2:Thank you, Alan G. :)
Diane Plaut (IPC):Option 2 can be fine but without the ( ) - as the IPC sopposes limiting it to domain registration it strongly supports use an/or registration of domain names
Diane Plaut (IPC):Alan W that is a great idea
Alan Woods (RYSG):AFK for a minute or too but i'll catch up! :)

Alan Greenberg (ALAC) 2:@Caitlin: Sent.
Caitlin Tubergen 2:thanks so much, Alan G.
Julf Helsingius (NCSG):Remind me again as to why we are discussing access at this point?
Kurt Pritz:@Julf We are reviewing the commens for every recommendation
Matt Serlin (RrSG):is the point of this to be a stop-gap measure correct?
Milton Mueller:+100 Tatiana.
Milton Mueller:we need easy solutions
Milton Mueller:yes
Alan Greenberg (ALAC) 2:I don't think it is a question of Phase 1 or 2. It cannot be phase 1 if we are to come anywhere near meeting our timeline.
Matt Serlin (RrSG):agree that this needs to go to the larger group full stop
Tatiana Tropina (NCSG alternate):oh, I can agree with Margie! It's not the question for the team A :)
Tatiana Tropina (NCSG alternate):But only agreeing in that point
Emily Taylor (RrSG):Yes, agree that this goes up to the plenary
Matt Serlin (RrSG):And the goal would be to have this included in the final Feb. 1 report??
Margie Milam (BC):yes
Tatiana Tropina (NCSG alternate):Alan, this does not contradict much to what I said. No time at all. Hence Phase 2 -- for all the comments to be taken into account.
Matt Serlin (RrSG):agree with Alan G...we've identified some points which should be addressed, but we haven't even discussed the specific obligations these would create
Tatiana Tropina (NCSG alternate):well at least analysing them in the small team A is madness
Diane Plaut (IPC):+1 Alan G
Diane Plaut (IPC):Yes, Ben
Alan Greenberg (ALAC) 2:Remember, we may NEVER come to agreement on a UAM. If we wait for that, it may be a LONG time.
Alan Greenberg (ALAC) 2:+100 Ben!
Margie Milam (BC):+1 - Ben
Matt Serlin (RrSG):well said Ben
Margie Milam (BC):+1 Georgios
Alan Greenberg (ALAC) 2:There is a question of how we would implement such a set of guidelines after the policy replacing the temp spec and before our phase 2 final report. Perhaps aset of "best practices" agreed to by the RySG and RrSG.
Margie Milam (BC):We can make progress on the bullets identified in the recommendtion 12 to enhance the Temp Spec
Tatiana Tropina (NCSG alternate):I was also confused for the same reason as Milton because there seemed to be a consensus about phase 2 and there is no time on earth really agree on major expansion of the issue when all public comments are taken into account in the phase 1
Tatiana Tropina (NCSG alternate):it's up to plenary of course what is going to be discussed in Toronto, but I was confused
Diane Plaut (IPC):Our role is to review the comments and take them into account. We already drafted this Purpose, and now we need to add detail to make the process implementable. The goal is to make it a workable process for the CPH and RNHs and third parties submitting requests. As Alan is explaining, determining reasonable, standardized and predictable guidelines is the goal.
Diane Plaut (IPC):+1 Alan W
Milton Mueller:we need a policy before we can implement, Diane
Alan Woods (RYSG):absolutely fair Alan ...
Ben Butler (SSAC):Agree with Alan W.
Alan Woods (RYSG):I think that we can expcet a time ine to not be patent unreasonable etc.

Alan Woods (RYSG):oh ... typing ....
Alan Woods (RYSG):not patently unreasonable.... rtc :)
Matt Serlin (RrSG):Agree with both Alan's comments
Alan Woods (RYSG):etc ... sigh
Milton Mueller:We cannot resolve them in Toronto, that's absurd
Milton Mueller:So Alan you are now rejecting Recommendation 12 in its entirety?
Milton Mueller:its very predictable how far we will be able to get in toronto in this
Alan Greenberg (ALAC) 2:@Milton, cannot resolve the entire issue, but if we can get some more predictability and uniform methodology, that would be great! ANd I for one beleive that is possible.
Matt Serlin (RrSG):wrt to Toronto, I think it makes sense to discuss it there once we have worked through all the other items that HAVE to be included in the final report
Milton Mueller:Yes or no, Alan, are you rejecting the Recommendation 12?
Margie Milam (BC):Kurt - are you muted?
Alan Greenberg (ALAC) 2:Yes I am rejecting it because it says doNOTHING until we have a UAM designed, accepted and implemented.
Milton Mueller:that's not true. It says something very clear: we stick with the temp spec but flesh out the definition of "reasonable"
Alan Greenberg (ALAC) 2:@Matt +1 But we should make an effort. Even if over lunch with a small group.
Alan Greenberg (ALAC) 2:@Milton, I think that it is not just "reasonable" but process and timelines
Tatiana Tropina (NCSG alternate)::D
Diane Plaut (IPC):Milton - what a bleak comment
Tatiana Tropina (NCSG alternate):That was my udnerstading of this recommendation as well. But if there is a duty/need to analyse all the comments there will be a total reopening of the discussion -- if they are analysed properly
Milton Mueller:gallows humor, Diane
Tatiana Tropina (NCSG alternate):and many of them can be interpreted as related to phase 1 and phase two, there is no clear line there. Some of them say access shouldn't even be in the report now!
Alan Woods (RYSG):also .... it's not an access discussion, it's a 'response to disclosure requests' discussion
Matt Serlin (RrSG):+1 Alan is 100% correct
Tatiana Tropina (NCSG alternate):Alan W, oh yes.
Tatiana Tropina (NCSG alternate):definitely not access
Milton Mueller:agree with your terminology Alan
Ben Butler (SSAC):well put Alan
Diane Plaut (IPC):Yes, well said Alan
Milton Mueller:unfortunately the temp spec says "access" not "disclosure"
Tatiana Tropina (NCSG alternate):I think it also goes from the charter, so we are doomed
Tatiana Tropina (NCSG alternate):(as a councillor, I might be held responsible for that one... sort of)
Alan Woods (RYSG):but our recommendation is to change that Milton of course :)
Milton Mueller:we agree
Alan Woods (RYSG):as long as those who attempt to do this..... realise it's not a cookie cutter approach.
Milton Mueller:it had better be a few minutes! 5 to be exact
Alan Greenberg (ALAC) 2:I have a hard stop on the 1/2 hour.
Margie Milam (BC):I have to drop off too
Matt Serlin (RrSG):perfect...kick it up...wrap for the day!
Alan Woods (RYSG):agreed! :)

Emily Taylor (RrSG):So, Kurt - you're saying leave this one to plenary - agreed!!
Ben Butler (SSAC):agree
Diane Plaut (IPC):Agree
Matt Serlin (RrSG):thanks all
Tatiana Tropina (NCSG alternate):thanks all -- bye
Alan Woods (RYSG):thanks all!!!! safe travels
Julf Helsingius:See you in Toronto!
Georgios Tselentis (GAC):bye thanks and see you soon