**Possible approach to consensus in deliberation of possible requirements for RDS PDP WG**

Background

This is a revised version of the one presented in the WG call on 14 June. Edits have been made multiple times since then; the edits made to version 10 that was distributed to the WG list shortly before the WG call on 22 June are redlined to make it easy to see them.

A suggestion was made in the 14 June WG meeting to cover three charter question areas (purpose, privacy, data elements) first and getting public feedback on those areas before considering the areas of accuracy and gated access; Chuck then said that that could result in three Initial Reports for Phase 1. A list of pros and cons of this approach versus the approved work plan was created and distributed to the WG list on 20 June. It seems pretty clear that there are good arguments on both sides and there does not appear to be consensus either way, so the leadership team proposes the approach below that hopefully addresses concerns on both sides.

Proposed Approach

1. With reference to Charter Section IV, Rules of Engagement, the leadership team recommends the following regarding determining consensus on possible requirements:
   1. Modify the WG Work Plan to allow for producing two Initial Reports for Phase 1, each followed by public comments:
      1. After initial deliberation on the first five charter questions (Work Plan steps 12.a, 12.b, 12.c), the General Requirements (Work Plan step 12.d) and the Fundamental Question (Work Plan step 12.e – “Is a new next-gen RDS needed or can the existing WHOIS system be modified to satisfy requirements for questions 1-5?”)
         * Note that this would entail adding the following sub-steps to Work Plan task 12: First Initial Report for Phase 1, Review & analyze input received on First Initial Report.
      2. At the end of Phase 1 (Work Plan steps 13-16)
         * Note that Work Plan step 17 would be changed to “Second Initial Report for Phase 1”.
   2. If the WG decides that input from the SOs, ACs, SGs & Cs is needed after deliberating on the possible requirements regarding purpose, privacy and data elements and before deliberating on the possible requirements about gated access and accuracy (or at any point during phase 1), additional Outreach step(s) may be added to the Work Plan.
   3. Forego formally determining consensus on individual possible requirements according to the charter until after public comment is received and analyzed on the first Initial Report.
      1. In the interim we should try to reach rough consensus on possible requirements and communicate that in the first Initial Report.
      2. In cases where that is not possible, describe the level of agreement and/or disagreement in the first Initial Report sufficiently enough to allow for public input to help guide the consensus process.
         * For example: ‘supported by all’, ‘supported by most’, ‘supported by many but also objected to by many’ but make clear that a formal consensus call will only take place after the review of comments on the first Initial Report.
   4. Analyze and respond to public comments using the public comment tool.
   5. Taking into consideration the public comment input, formally determine consensus on the possible requirements for the applicable questions using the procedures contained in Charter Section IV.
2. Take the following steps to organize the possible requirements list for all eleven charter questions:
   1. Triage list of possible requirements to ensure they are in the correct phase and organize the list accordingly so that applicable possible requirements that should be considered in phase 1 can be more easily considered by the WG, and all others remain as placeholders for consideration during phases 2&3
      1. This is in response to Greg Aaron’s comments.
      2. Lisa Phifer and Susan Kawaguchi will take a first crack at this for review and approval by the WG. (Note that there was support and no objections to this triage on the WG call on 14 June.)
   2. Identify similarities and interdependencies of possible requirements, facilitating deliberation on similar requirements and consideration of any prerequisite possible requirements before dependent ones.
      1. In addition to the task described in 2.a.ii, Lisa Phifer and Susan Kawaguchi will take a first cut at grouping similar/related possible requirements and organizing them for review and approval by the WG. (Note that there was support and no objections to this grouping on the WG call on 14 June.)
      2. After possible requirements are arranged into similar/related groups, the WG should identify dependencies and consider them accordingly.
3. Decide where to start deliberation (Note that discussion on this was initiated in the 14 June WG call and WG members were asked to continue the discussion on the list before the call on 22 June; efforts were made to agree on an approach in the 21 June meeting and discussion followed on the list after that meeting. Chuck had asked that comments and objections be communicated by Friday, 24 June with the hope that this overall approach could be at least tentatively approved before the Helsinki meetings.  A number of objections were expressed on the mailing list, but these seemed mainly related to the short timeframe available for review. Nevertheless, as a result, it is proposed to allow for additional time to discuss the approach in Helsinki if further specific concerns and/or proposed changes are identified prior to the Helsinki meeting. Note that the comments related primarily to this section 3; in response, the example that generated a lot of criticism was removed and a few other edits were made. The leadership team aims to confirm in the F2F meeting whether there are further concerns and/or objections to determine whether additional time needs to be made available to deal with this topic as part of the F2F meeting. As a possible aid, Chuck added section c below to get any such discussion started.
   1. The Work Plan is designed to start with the questions related to three areas: users/purposes, privacy & data elements questions. See Work Plan step 12.a (deliberating on possible requirements for questions about users/purposes, data elements & privacy).
   2. To begin Work Plan step 12.a, Chuck in his capacity as chair proposed the following three steps prior to the 22 June WG meeting:
      1. Using the list of possible requirements developed by the WG, identify a subset that would apply to the RDS in all circumstances (see example below).
         * To accomplish this, WG members would be asked to:
           1. Individually propose any such possible requirements for WG consideration related to one or all of the three areas (users/purposes, privacy, data elements)
           2. Collectively debate and refine all such possible requirements and try to reach rough consensus as described in 1.c above.
         * Here is an example of a possible requirement proposed by Chuck for illustrating the type of requirements that might apply to the RDS in all circumstances:
           + “The RDS must collect, validate, store and display the domain name and registrar name for all second level gTLD domain names.” (A possible source for this requirement would be **[DE-D07-R02]** – From Spec 4, Section 1.6: “Registrar Data [must include] Registrar Name.”)
         * If this example possible requirement was proposed to the WG as one that would apply to the RDS in all circumstances (i.e., no exceptions or specific conditions apply), the WG would then discuss it and modify the wording as needed for the purpose of determining whether there is at least rough consensus that it would apply to the RDS in all circumstances.
         * Here is a counter example, i.e., possible requirements that may not apply in all circumstances:
           + “[DE - D30 - R09] – The Data Retention Limitation principle (Article 6(1)e of the Directive) is a fundamental principle in EU data protection law imposing that personal data must only be kept as long as necessary to achieve the purpose for which the data have been collected or for which they are further processed. pg17” Note that this possible requirementmight only apply when the applicable jurisdiction is the EU or in other jurisdictions that have similar directives.
      2. Review and refine the triaged and grouped possible requirements list prepared in step 2 above including confirming dependencies and/or priorities as applicable.
      3. Deliberate on the remaining possible requirements for which there was not rough consensus that they apply in all circumstances using the triaged/grouped list of possible requirements from the preceding step ii.
   3. To facilitate further discussion on Chuck’s proposed step 3.b.i above, Chuck suggests seeking responses to the following questions:
      1. Do WG members think that there may be possible RDS requirements that would apply in all circumstances, i.e., there would be no exceptions or special conditions would apply regardless of who the users are, what the purposes of the RDS is determined to be, what the jurisdiction is, etc.?
         * If so, is there support for starting deliberations as Chuck proposed in step 3.b.i above?
         * If not or if there are significant objections to starting deliberations as in step 3.b.i, where should we start the deliberation process?