AC Attendance - 38 Members

Alan Greenberg	GZ Kabir	Sara Marcolla - EC3
Alan Woods (Donuts)	Herb Waye Ombuds	Scott Hollenbeck (Verisign)
Alex Deacon	James Galvin (Afilias)	Steve Metalitz
Andrew Sullivan	Kathy Kleiman	Tapani Tarvainen
Benny Samuelsen / Nordreg AB	Klaus Stoll	Tim Chen
Bradley Silver	Kris Seeburn	Vicky Sheckler
Chuck Gomes	Laura Margolis	
Craig Urness	Marc Anderson	
David Cake	Mason Cole	
Denny Watson	Maxim Alzoba (FAITID)	
Dina Solveig Jalkanen	Michael Palage	
Evan Smith	Nathalie Coupet	
Greg Aaron	Phil Marano	
Greg Mounier	Rod Rasmussen	
Greg Shatan	Roger Carney	
Griffin Barnett	Sara Bockey	

On Audio Only: none

Apologies: Bastiaan Goslings, Michele Neylon, Tim O'Brien, Marika Konings (staff)

Staff: Lisa Phifer, Trang Nguyen, Julie Bisland

AC CHAT:

Julie Bisland:Welcome to the GNSO Next-Gen RDS PDP Working Group teleconference on Tuesday, 30 January 2018 at 17:00 UTC

Julie Bisland:Agenda wiki page: https://urldefense.proofpoint.com/v2/url?u=https-3A__community.icann.org_x_8ge8B&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=B-73goEttZdMUnthICX1lE144LTvy9J9C7JVOda1flE&s=M1-ODwuJIzjpoG_JEWDFqWy5DhmNkA-JmJ3pzGRLYgA&e=

Kris Seeburn:ji julie

Julie Bisland:Hello Kris! How are you?

Kris Seeburn:fine but too much stress these days..too much to do...

Julie Bisland:oh, sorry to hear about the stressful times! I understand though. :(

Kris Seeburn:i know you guys have these hectic moments as well

Kris Seeburn:Hi Alan

Alan Greenberg:Hi all.

Chuck Gomes:Hi all. Please add a new agenda item: 1.b Confirm Alex Deacon as a member of the WG Leadership Team to replace Susan.

Andrew Sullivan:I don't _exactly_ have an update to SOI today. It's been announced that I'll be a member of the IETF Administrative Oversight Committee starting at the IETF meeting in March. So I haven't an actual update, but I will in about a month and a half.

Lisa Phifer:Handout: https://urldefense.proofpoint.com/v2/url?u=https-3A__community.icann.org_download_attachments_79431666_Handout-2D30January-

2DRDSWGCall.pdf&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=B-73goEttZdMUnthICX1lE144LTvy9J9C7JVOda1flE&s=7SZUOcC-x0gr6ZrMCjSM8XwNTAQlh9QPRqP4-YHMOs8&e=

Vicky Sheckler:hi. not on the phone call yet. joining shortly

Andrew Sullivan:(The reason I mention it is because it might have implications for some about my interests.)

Lisa Phifer:Agenda is on slide 2, we are in agenda item 1, discussing new agenda item regarding replacement of Susan Kawaguchi as VC

Kris Seeburn:none from me

Alex Deacon:Thanks all for your support!

Maxim Alzoba (FAITID):Hello All, sorry for being bit late

Lisa Phifer:Comment Summary: https://urldefense.proofpoint.com/v2/url?u=https-3A__community.icann.org_download_attachments_79431666_CommentSummary-2D24JanuaryPoll-2Dv3.pdf&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=B-73goEttZdMUnthICX1lE144LTvy9J9C7JVOda1flE&s=6122DOzIodiGonvbGvM8IyJahzx-P64lTwhgAjXhEQQ&e==

Laura Margolis:Hello!

Lisa Phifer:Full poll results are posted on wiki page for this meeting: https://urldefense.proofpoint.com/v2/url?u=https-3A__community.icann.org_x_8ge8B&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=B-73goEttZdMUnthICX1lE144LTvy9J9C7JVOda1flE&s=M1-ODwuJIzjpoG_JEWDFqWy5DhmNkA-JmJ3pzGRLYgA&e==

Nathalie Coupet:Sorry for being late

Maxim Alzoba (FAITID):I think situation where personal data collected for one reason and later used for another reason might not work well

Lisa Phifer:Displayed now -- Comment Summary: https://urldefense.proofpoint.com/v2/url?u=https-3A__community.icann.org_download_attachments_79431666_CommentSummary-2D24JanuaryPoll-2Dv3.pdf&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=B-73goEttZdMUnthICX1lE144LTvy9J9C7JVOda1flE&s=6122DOzIodiGonvbGvM8IyJahzx-P64lTwhgAjXhEQQ&e==

Lisa Phifer:Question 2 as whether you supported the proposed WG Agreement from last week: Criteria to be used to determine whether any proposed purpose is legitimate for processing registration data are: a) In support of ICANN's mission; b) A legitimate interest pursued by the data controller; c) Necessary for the fulfillment of a contract; d) Inherent to functionality of the DNS; e) In the public interest; or f) Necessary for compliance with a legal obligation.

Lisa Phifer:Question 2 asked...

Maxim Alzoba (FAITID):ICANN Mission might change over time, and it would invalidate all constructs on the top of it

Andrew Sullivan:I think I sent my reasoning about this to the list, so I won't repeat it

Kathy Kleiman:I'm just coming online. Could you repeat the question?

Lisa Phifer:Does anyone disagree with the statement that this list of criteria must be non-exhaustive? Raise your hand to explain

Maxim Alzoba (FAITID):I do not think we are limited only to GDPR

Denny Watson:We are not a GDPR enforcement group

Kris Seeburn:@maxim +1

Bradley Silver:@Chuck - compliance with national privacy laws is implicit on the work of the group, generally.

Alan Greenberg:Sorry, line dropped. Back shortly

Lisa Phifer:Lost audio, dialing back in

Julie Bisland:@Alan, please let me know if you'd like a dial out

Alan Greenberg:Back now

Lisa Phifer:Note that what we are aiming for with this poll question is to flesh Flesh out a possible WG Agreement such as "The following non-exhaustive list of criteria will be used by the WG to determine if any proposed purpose for processing registration data may be legitimate: <list>"

Bradley Silver:@Chuck +1

Vicky Sheckler:agree w/ chuck

Mason Cole:+1 Chuck

Maxim Alzoba (FAITID):GDPR does not see non-EU law enforcement as a law enforcement ...

Tapani Tarvainen:@Alan: I disagree. "Valuable and useful to law enforcement" is not enough to mandate collection.

Greg Shatan:Well stated, Alan. Also agree with you and Chuck.

Lisa Phifer:Note that the question is not whether the list of PURPOSES should be fixed, but rather whether the list of CRITERIA this WG uses to decide whether purposes are legitimate should be fnon-exhuatstive

Alan Greenberg:@Tapani, it is if that information is deemed important for protecting the DNS. and confidence in it.

Andrew Sullivan:@Alan: you don't need the LEO association with that. "security and stability of Internet identifier system" does what you need.

Kathy Kleiman:I listened to the recording and reviewed the slides closely.

Tapani Tarvainen:@Alan: That's a big if. Valuable and useful to law enforcement of some countries would reduce confidence in DNS.

Andrew Sullivan:I will note, in response to what Chuck is saying about call recordings right now, that if we were better at doing work on the list then discussion would be more like the Internet's usual async way of working

Kathy Kleiman:ICANN is not a law enforcement agency; it collects data for its own purposes - managing the DNS

Alex Deacon:ensuring "security and stability of Internet identifier system" is a task that many are involved in - not just LEAs.

Andrew Sullivan:If one is going to collapse a and d, it might as well _just_ be d. What does a add?

James Galvin (Afilias):I prefer to think that they are required as opposed to "only".

James Galvin (Afilias):Other reasons may be valid.

Lisa Phifer:Chuck has asked if anyone opposes a) AND d) being the only criteria - if you do, please raise your hand and explain

Lisa Phifer:Again, please note we are trying to agree on CRITERIA for deciding if purposes are legitimate, not the PURPOSES themselves yet

Vicky Sheckler:a and d should not be collapsed

Denny Watson:@lisa, the two are linked

Andrew Sullivan:I didn't speak (and won't now) because I totally don't care about collapsing these two

Andrew Sullivan:but I was hoping to encourage someone who thinks you need _both_ a and d to say what's in a that is not in d.

steve metalitz:Vicky is referring to the EC letter that Greg M circulated to this list earlier today

Lisa Phifer:Green check If you agree with comment "Only a) AND d) are valid" criteria to determine legitimacy of any purpose for processing registration data; Red X if you do not

Lisa Phifer:Document noted on call just now: https://urldefense.proofpoint.com/v2/url?u=https-3A__www.icann.org_en_system_files_correspondence_avramopoulos-2Det-2Dal-2Dto-2Dmarby-2D29jan18-2Den.pdf&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=B-73goEttZdMUnthICX1lE144LTvy9J9C7JVOda1flE&s=UuAuY7qwTgW1OliypuZtTR_xm8bnGxHGmGVpUedpRPk&e=

Alex Deacon:Remember "Again, please note we are trying to agree on CRITERIA for deciding if purposes are legitimate, not the PURPOSES themselves yet"

Lisa Phifer:Green check If you agree with comment "Only a) AND d) are valid" criteria to determine legitimacy of any purpose for processing registration data; Red X if you do not

Tapani Tarvainen:Not saying aye nor nay at this point.

Kathy Kleiman:There are many people who might be on the call, but they are in meetings at ICANN inLA

Lisa Phifer:Raise hand if you think purposes don't have to be consistent with ICANN's mission?

Maxim Alzoba (FAITID):ICANN has to be consistent with the ICANN's mission, most probably

Tapani Tarvainen:If ICANN's mission turns out to be inconsistent with GDPR... hmm...

Lisa Phifer:"purpose" in today's call is shorthand for "purposes for processing registration data"

Kris Seeburn:+ vicky...

Kris Seeburn:veru

Kris Seeburn:very true

Andrew Sullivan:I sure would hate to have to change ICANN's mission as a result of this work. It's a fundamental bylaw.

Andrew Sullivan:I don't think I have that many years left in me to work on RDS :)

Kris Seeburn:+1 andrew

Lisa Phifer:@Bradley, note Suggested Additions are bottom of table

Bradley Silver:@thanks Lisa - noted

Lisa Phifer:We are discussing criteria that the WG will use to deliberate on purposes, not purposes themselves

Alan Woods (Donuts):sorry all. I must drop I shall catchup with transcript.

Lisa Phifer:Possibly the question is whether satisfying at least one legal basis for processing should be a criteria taken into considertion by the WG when deliberating on possible purposes

steve metalitz:@Andrew, note Vicky's input that (a) ought better be phrased as "not inconsistent with ICANN's mission"

Nathalie Coupet:I will have to drop the in a few minutes

Nathalie Coupet:the line

Lisa Phifer:There are aspects of ICANN's mission which provide futher guidance beyond "functionality of DNS" thus a) not just d) included in the poll

Andrew Sullivan:I think I agree with Greg if we understand "third parties" to be "operators on the Internet not involved in the registration of the domain name"

Andrew Sullivan:tic tac toe?

Kris Seeburn:agree with greg .... sometimes when you look at these they tend to sound like that

Alex Deacon:@andrew - not so sure - "operators on the Internet not involved in the registration of the domain name" would seem to exclude registrants and many 3rd parties, no?

Andrew Sullivan:@Alex: anyone on the Internet is _ispo facto_ an operator of something.

Greg Shatan:Andrew, there is no need to restrict third parties, particularly that narrowly.

Nathalie Coupet:Must leave. Bye all

Andrew Sullivan:@Greg: well, those were the people for whom "the whois was always created"

Andrew Sullivan:This is entirely clear in the early descriptions of NICNAME

Kathy Kleiman:Could you say that again Lisa?

Andrew Sullivan:FWIW, I quite agree with Lisa's description of why to do this, and I think its helpful. Now that we've done this, however, I realise that I'm mystified why (a) or (d) is not the basic criterion. Also, it strikes me that I've previously argued implicitly that it _is_ the basic criterion, but perhaps I haven't defended that position

steve metalitz:@Lisa or could you enter that proposal in chat?

Herb Waye Ombuds:Have to drop out for a meeting folks... have a great day everyone.

Lisa Phifer: Possibly the question is whether satisfying at least one legal basis for processing should be a criteria taken into considertion by the WG when deliberating on possible purposes - that is a) plus d) plus a new criteria that the purpose must satisfy at least one legal basis for processing as defined by GDPR

Benny Samuelsen / Nordreg AB 2:very difficult to hear

steve metalitz:@Lisa thanks

Andrew Sullivan:@Lisa: well, ok, but since (a) flows from (d) and since (b) would necessarily follow from (a) then I think we've arrived :)

Lisa Phifer:Revised proposal: The list of criteria would be a) plus d) plus a new criteria that the purpose must satisfy at least one legal basis for processing as defined by GDPR and other data protection laws

Denny Watson:I wouldn't use "GDPR" and would use a more generic term.

Vicky Sheckler:apologies but I need to run. my bottom line is that the criteria shouldn't be unduly restrictive. my fear is that narrowing the criteria will lead to absurd results that are inconsistent with legitimate purposes arleady recognized by govts

Bradley Silver:Unless I am misunderstanding LIsa's suggestion, is the proposal to make ICANN's mission/functionality of the DNS a gating factor, and then must ba an additional legal basis?

Lisa Phifer:@Bradley yes

Bradley Silver:If that's the case, do not support that, and runs contrary to the sentiment of the poll and those on the call

Lisa Phifer:However, a) may be reworded per Vicky's suggestion and Kathy's comment re: AND / OR

Bradley Silver:@Lisa - and/or would be better.

Lisa Phifer:My suggestion was really to collapse the rest into a criteria about satisfying at least one legal basis for processing

Maxim Alzoba (FAITID):BTW - in GDPR written consent shoul be written in simple language, and I am not sure "ICANN's mission" is easy to explain ...

Bradley Silver:I beileve the earlier suggestion was "not inconsistent" with the mission

steve metalitz:+1 Alan, "not outside the mission" or "not inconsisent with the mission"

Lisa Phifer:Here's a proposed WG agreement: The following non-exhaustive list of criteria will be used by the WG to determine if any proposed purpose for processing registration data may be legitimate: (a) not be inconsistent with ICANN's mission, (d) be inherent to the functionality of the DNS, AND (x) satisfy at least legal basis for processing as defined by data protection laws.

Bradley Silver:Lisa - should be AND/OR

Lisa Phifer:Oops, that was intended to be at least one legal basis

Denny Watson:+1 Greg

Andrew Sullivan:I didn't boil a down to d. I said that if you accept d, then you accept a.

Andrew Sullivan:i.e. a is entailed by d

Andrew Sullivan:You might accept a as a criterion on other grounds, which might be a reasonable point of expanded criteria beyond d, I agree.

Andrew Sullivan:a is a superset of d

Lisa Phifer:@Andrew, ICANN's mission statement isn't equivalent to the text in d) - d) is dervied from a), correct?

Andrew Sullivan:Right. If d then a: d is sufficient for a. A might be a superset of d

Tapani Tarvainen:@Andrew that's not what superset means. If a is superset of a it means it can have things not included in (or implied by) d.

Andrew Sullivan:@Tapani: yes, "d is sufficient for a" means that everything in d is in a, but it does not tell you whether there is more in a

Andrew Sullivan:so a may be (not necessarily, but may be) a superset of d

Tapani Tarvainen:@Andrew: OK. But that's not same as "if d then a".

Lisa Phifer:For those who may want to refer to ICANN's mission, it is today's handout on slide 10

Lisa Phifer:Handout: https://urldefense.proofpoint.com/v2/url?u=https-3A__community.icann.org_download_attachments_79431666_Handout-2D30January-2DRDSWGCall.pdf&d=DwIFaQ&c=FmY1u3PJp6wrcrwIl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=B-73goEttZdMUnthICX1lE144LTvy9J9C7JVOda1flE&s=7SZUOcC-x0gr6ZrMCjSM8XwNTAQlh9QPRqP4-YHMOs8&e=

Andrew Sullivan:@Tapani: sorry, yeah, brain-o when typing

Alex Deacon:"not inconsisent with the mission"

Lisa Phifer:Repeating proposed WG agreement: The following non-exhaustive list of criteria will be used by the WG to determine if any proposed purpose for processing registration data may be legitimate: the purpose should be (a) not be inconsistent with ICANN's mission, (d) be inherent to the functionality of the DNS, AND (x) satisfy at least one legal basis for processing as defined by data protection laws.

Lisa Phifer:Sorry, too many "be's" in that construction...

Lisa Phifer:Ok, fixing that: proposed WG agreement: The following non-exhaustive list of criterion will be used by the WG to determine if any proposed purpose for processing registration data may be legitimate: the purpose should be (a) not inconsistent with ICANN's mission, (d) inherent to the functionality of the DNS, AND (x) satisfy at least one legal basis for processing as defined by data protection laws.

Bradley Silver:I dont think (d) belongs there. Data that may be useful for consumer protection or law enforcement may not strictly be inherent to the "functionality" of the DNS

Kris Seeburn:can be wordsmithed

Tapani Tarvainen:I like that proposal.

Denny Watson:I would like "OR", and really like "as defined by data protection laws" as a replacement for GDPR.

Greg Shatan:I agree with Bradley.

Lisa Phifer:I think we could move "be" around in the phrasing, but focus on the concept - must ALL the criteria be considered, or can any of the criteria be considered alone?

Greg Shatan:It should be "applicable data protection laws." If we use it at all.

Lisa Phifer:In other words, would a purpose have to do all 3, or is it enough to satisfy just one of those criteria?

Bradley Silver:Good point, Chuck - re: everything in ICANN's Mission needing to be a legal basis. Are we agreeing to scope which will prevent iCANN from fulfilling its mission?

Tapani Tarvainen:Has to be AND. All three should be satisfied.

Sara Bockey:Agree with Tapani and Andrew. It needs to be AND

Kris Seeburn:AND is better

Michael Palage:Chuck I respectfully disagree

Lisa Phifer: Trying a cleaner proposed WG agreement: The WG will use the following non-exhaustive list of criterion to determine if any proposed purpose for processing registration data may be legitimate: (a) The purpose must not be inconsistent with ICANN's mission, (d) The purpose must be inherent to the functionality of the DNS, AND (x) the purpose must satisfy at least one legal basis for processing as defined by data protection laws.

Denny Watson:"AND not be inconsistant with data protection laws." ?

steve metalitz:If A is actually a superset of D, why is D needed?

Alex Deacon:if a) covers d) then I would suggest we can simplify by removing d).

Greg Shatan:Agree we should remove d.

Kris Seeburn:it looks and sound better

James Galvin (Afilias):you can't remove "d" because it leaves it too broad

Sara Bockey:+1 too Denny's proposal. Perhaps that clarifies better?

Tapani Tarvainen:The point of AND is that it excludes things in a that aren't in d

steve metalitz:@Jim can you give an example of the overbreadth?

Bradley Silver:What are we trying to achieve here? I am concerned about the creation of "super-criteria" such as DNS functionality.

Greg Shatan:@Tapani, That is exactly why AND should not be used.

James Galvin (Afilias):@steve - anything not related to the DNS that might be included in ICANN's mission.

Greg Shatan:Bradley, I think this is the "proxy battle" I mentioned earlier.

James Galvin (Afilias):the Internet's identifier system also includes protocols and IP addresses

Maxim Alzoba (FAITID):bye all

Benny Samuelsen / Nordreg AB 2:bye

Kris Seeburn:bye...

Andrew Sullivan:bye byw

Greg Shatan:Bye!