

### AC Attendance - 45 Members

Alan Greenberg	Farzaneh Badii	Roger Carney
Alan Woods (Donuts)	Greg Aaron	Sam Lanfranco
Alex Deacon	Greg Shatan	Sara Bockey
Ayden Férdeline	Griffin Barnett	Scott Hollenbeck (Verisign)
Bastiaan Goslings	James Galvin (Afilias)	Sivasubramanian Muthusamy
Benny Samuelsen / Nordreg AB	Jenn Taylor Hodges	Stephanie Perrin
Beth Bacon	Justin Mack	Steve Metalitz
Bradley Silver	Kathy Kleiman	Susan Kawaguchi
Chris Wilson	Klaus Stoll	Tapani Tarvainen
Chuck Gomes	Laura Margolis	Tom Undernehr
Daniel K. Nanghaka	Marc Anderson	Vicky Sheckler
David Cake	Mason Cole	Vlad Dinculescu
Denny Watson	Maxim Alzoba (FAITID)	Volker Greimann
Dina Solveig Jalkanen	Michael Hammer	
Elaine Pruis	Michael Palage	
Evan Smith	Rod Rasmussen	

**On Audio Only:** Sarah Kiden

**Apologies:** Andrew Sullivan, Rubens Kuhl, Michele Neylon, Herb Waye (staff)

**Staff:** Caitlin Tubergen, Karen Mulberry, Lisa Phifer, Marika Konings, Berry Cobb, Dennis Chang, Julie Bisland

### AC CHAT Transcript:

Julie Bisland: Welcome to the GNSO Next-Gen RDS PDP Working Group teleconference on Tuesday, 06 February 2018 at 17:00 UTC

Julie Bisland: Agenda wiki page: [https://urldefense.proofpoint.com/v2/url?u=https-3A\\_community.icann.org\\_x\\_9wq8B&d=DwlFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QjF-05YzARosRvTYd84AB\\_UYInlydmFcjNmBM5XgySw&m=dYJsV0SYHOoLRalzNxgvyOr79dHMNNjAITZVKVUieFU&s=qDofxCe7wiNDE3\\_R1hV-jVvHQJIAmhviGOYwXGcreHI&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_x_9wq8B&d=DwlFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QjF-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=dYJsV0SYHOoLRalzNxgvyOr79dHMNNjAITZVKVUieFU&s=qDofxCe7wiNDE3_R1hV-jVvHQJIAmhviGOYwXGcreHI&e=)

Julie Bisland: If Adobe Connect is not functioning properly, please check your plug ins: [https://urldefense.proofpoint.com/v2/url?u=http-3A\\_tinyurl.com\\_icannactest&d=DwlFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QjF-05YzARosRvTYd84AB\\_UYInlydmFcjNmBM5XgySw&m=dYJsV0SYHOoLRalzNxgvyOr79dHMNNjAITZVKVUieFU&s=qg4sRGSXhSog28rc89iE4EGbIW47GDGzKfNHZVerMzQ&e=](https://urldefense.proofpoint.com/v2/url?u=http-3A_tinyurl.com_icannactest&d=DwlFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QjF-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=dYJsV0SYHOoLRalzNxgvyOr79dHMNNjAITZVKVUieFU&s=qg4sRGSXhSog28rc89iE4EGbIW47GDGzKfNHZVerMzQ&e=)

Ayden Férdeline: Hi all

Julie Bisland: hello Ayden, welcome :)

Ayden Férdeline: thanks Julie!

Alan Woods (Donuts): yes we can! :)

Julie Bisland: thank you, whew!

Lisa Phifer:Call Handout: [https://urldefense.proofpoint.com/v2/url?u=https-3A\\_community.icann.org\\_download\\_attachments\\_79432439\\_Handout-2D6February-2DRDSWGCall.pdf&d=DwIFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB\\_UYInlydmFcjNmBM5XgySw&m=dYJsV0SYHOoLRalzNngxvyOr79dHMNNjAITZVKVUieFU&s=0WzqYx9eqiC2Ae0l2pc-HD\\_cGINMK7ZSE1j\\_nyLWZiQ&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_download_attachments_79432439_Handout-2D6February-2DRDSWGCall.pdf&d=DwIFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=dYJsV0SYHOoLRalzNngxvyOr79dHMNNjAITZVKVUieFU&s=0WzqYx9eqiC2Ae0l2pc-HD_cGINMK7ZSE1j_nyLWZiQ&e=)

Lisa Phifer:We are now on agenda item 2 - slide 3

Lisa Phifer:Poll Results: [https://urldefense.proofpoint.com/v2/url?u=https-3A\\_community.icann.org\\_download\\_attachments\\_79432439\\_AnnotatedResults-2DPoll-2Dfrom-2D30JanuaryCall.pdf&d=DwIFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB\\_UYInlydmFcjNmBM5XgySw&m=dYJsV0SYHOoLRalzNngxvyOr79dHMNNjAITZVKVUieFU&s=hms7F2-f8ok-hqzqnDhll0WFSS48d7W-kNfW\\_deRrWU&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_community.icann.org_download_attachments_79432439_AnnotatedResults-2DPoll-2Dfrom-2D30JanuaryCall.pdf&d=DwIFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=dYJsV0SYHOoLRalzNngxvyOr79dHMNNjAITZVKVUieFU&s=hms7F2-f8ok-hqzqnDhll0WFSS48d7W-kNfW_deRrWU&e=)

Klaus Stoll:Sorry one SOI update. I have updated my SOI. I am working now also as a Visiting Professor at Xi'an Jiaotong-Liverpool University, Suzhou

Lisa Phifer:@Klaus, noted

Maxim Alzoba (FAITID):Hello All

Marika Konings:@Klaus - please make sure to also update this on your online SOI if you have not done so yet. If you already did, just ignore my message :-)

Klaus Stoll:@Marika: I will ignore :-)

Bradley Silver:+1 Alan

Tapani Tarvainen:What in ICANN's mission is not RDS-related and how should that be relevant to RDS?

Sam Lanfranco:The meaning of "Words"...Like a lone voice in the wilderness I think we need a glossory task force to help our words have a common and understood meaning.

Denny Watson:+1 Alan

Lisa Phifer:Note that slides 15-17 provide text from ICANN's Bylaws covering ICANN's Mission

Ayden Férdeline:We should all be careful not to misquote the letter from the European Commission...

Ayden Férdeline:(just a general comment, not insinuating anything...)

Bradley Silver:+1 Greg Aaron - second sentence is redundant.

Marika Konings:The Board cannot act outside of ICANN's mission so if there would be a serious concern that this WG would be recommending anything that would be outside of ICANN's mission, the Board would need to act accordingly.

Denny Watson:RDS is w/in ICANN's mission. Statements about ICANN's mission \_at\_all\_ is redundant as ICANN is the publisher.

Denny Watson:perhaps I am misreading it.

Marika Konings:@Denny - the question is in relation to purposes for RDS not whether or not RDS is within ICANN's mission.

Ayden Férdeline:Stephanie Perrin has advised that she is unable to login to Adobe; waiting to be granted access. Could someone please let her into the room? Thanks

Lisa Phifer:@Denny, ICANN's mission statement does not refer to "RDS" although its ByLaws do in requiring periodic review of RDS.

Denny Watson:thx Marika

Marika Konings:@Ayden - can you ask her to try and login again. We don't see anyone waiting to get in.

Ayden Férdeline:ok, thanks, will ask her to try again. thanks Marika

Lisa Phifer:Revised Possible agreement (based on comments thus far): Any purpose for processing registration data must be consistent with ICANN's mission.

Michael Hammer:In theory, theory and practice are the same. In practice, not so much.

steve metalitz:I hope we can hear an answer to Alan's question: Is processing RDS data for purposes of DNS abuse investigation (including by law enforcement) consistent with ICANN mission? This is the advantage of the "not inconsistent" language we discussed last week.

Daniel K. Nanghaka:I agree with Lisa on the consistency

Alex Deacon:+1 Bradley - important that we not re-debate ICANN's mission in the PDP.

Vicky Sheckler:agree w/ Alex and Bradley

Vicky Sheckler:last week we were at non inconsistent with ICANN's mission

Lisa Phifer:@Vicky, poll results showed many WG members were uncomfortable with that phrasing

Ayden Férdeline:good question Kathy

Volker Greimann:And while we are on the topic of purposes: Legitimate purpose for whom? ICANN, contracted parties or just about anyone? I think our work would benefit from us making that distinction, as something that may be a legitimate purpose for law enforcement may not be a legitimate purpose for ICANN

Marika Konings:Nothing would prevent the WG to ask the Board at a certain point in time (for example at the time of the Initial Report) whether they believe any of the recommendations are to be inconsistent with ICANN's mission. But I don't think anything formal was foreseen with this reference (apart from the ultimate review of the policy recommendations by the ICANN Board)

Lisa Phifer:@Volker, if we ever move on from the list of purposes, the next step is indeed to try to agree on data and users for each purpose

Kathy Kleiman:Tx Chuck and Marika

Greg Aaron:The GAC certainly thinks that allowing DNS abuse investigation is within scope of ICANN's mission. (Which includes Germany the last time I checked.)

[https://urldefense.proofpoint.com/v2/url?u=https-3A\\_www.icann.org\\_en\\_system\\_files\\_files\\_gdpr-2Dcomments-2Dgac-2Dicann-2Dproposed-2Dcompliance-2Dmodels-2D29jan18-2Den.pdf&d=DwIFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB\\_UYInlydmFcjNmBM5XgySw&m=dYJsV0SYHOoLRalzNngxvyOr79dHMNNjAITZVKVUieFU&s=ZjZVIIVRTxlv0tF\\_WOZgbzNi\\_fXkzAbMSJuHmSbcdTk&e=](https://urldefense.proofpoint.com/v2/url?u=https-3A_www.icann.org_en_system_files_files_gdpr-2Dcomments-2Dgac-2Dicann-2Dproposed-2Dcompliance-2Dmodels-2D29jan18-2Den.pdf&d=DwIFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=dYJsV0SYHOoLRalzNngxvyOr79dHMNNjAITZVKVUieFU&s=ZjZVIIVRTxlv0tF_WOZgbzNi_fXkzAbMSJuHmSbcdTk&e=)

Greg Shatan:I would be more comfortable with "not inconsistent" vs. "consistent." Though we need to consider how different those two really are.

Bradley Silver:The board should not be requested to specifically approve each purpose that this group defines. That will create an opportunity for those who are not part of the consensus to lobby for the board to make changes. This group is charged with defining purposes, and the board will eventually approve this, or not. But by asking the board to "look under the hood" and tinker with specific conclusions of the group, is not the same as the board's general obligation to review the conclusions of this group.

Denny Watson:I agree, I don't believe anything is lost by removing the last sentence

Kathy Kleiman:Tx Alex

steve metalitz:@Lisa, "poll results showed many WG members were uncomfortable with that phrasing." "Many = 5 ---##8,7,6,4,1, Where do you get 9?"

Ayden Férdeline:I oppose any attempts to reduce Board oversight over our activities.

Bradley Silver:Ayden - no-one is suggesting that.

Volker Greimann:@Lisa: Thanks. You sound less than optimistic, though

Lisa Phifer:@Steve, 1,6,8,3,4,7,9,11,13 all expressed concerns regarding ICANN's mission

Greg Shatan:What necessitates this (second) sentence?

steve metalitz:@Lisa, #13 states: I am totally in favour of "The purpose must not be inconsistent with ICANN's mission"

Denny Watson:.. and if it is recommended, is the list of recommendations all inclusive?.. or is it going to later state in the document that the list is non-inclusive?

Daniel K. Nanghaka:The Recommendation from this WG is sent for approval to the board

Lisa Phifer:@Steve, yes, there were comments for against the phrasing and proposing alternative phrasing, but there were 9 comments addressing the topic of consistency

Lisa Phifer:The leadership examined all 9 to try to develop an alternative that might get more traction

Daniel K. Nanghaka:The most important this is to ensure GDPR compliancy

Michael Hammer:Is this really only about GDPR?

Alan Greenberg:Recommendation must be consistent with the Mission, but that is not the same as the Board explicitly confirming that the purpose is conforming.

Daniel K. Nanghaka:GDPR is just a subset of the key issue

steve metalitz:@Lisa #3 states strong support for option (b) which includes the "not inconsistent" phrasing.

Denny Watson:delete after "mission"

steve metalitz:Can you repeat what are we objecting to?

Susan Kawaguchi:I do not agree that is only about GDPR. This model is suppose to allow compliance with all applicable laws

Lisa Phifer:Chuck's Question: Does anyone object to: Any purpose for processing registration data must be consistent with ICANN's mission.

Michael Palage:Chuck having audio connection

Michael Palage:issues

Michael Palage:I will just comment during poll this week

Bradley Silver:@Lisa - I'm comment #3, and I am not uncomfortable with "not inconsistent" - I strongly prefer it, in fact.

steve metalitz:I object, it should be not inconsistent, until we have an answer to Alan's question.

Tapani Tarvainen:Does "dns abuse investigation (including by law enforcement) is not inconsistent with ICANN's mission" imply something could or should be added to RDS, either to data to be collected or how it's processed, solely for the sake of law enforcement needs (whatever police in any country might want)?

Greg Shatan:I agree with Steve and Bradley.

Volker Greimann:Chuck: Support this completely!

Tapani Tarvainen:Legal basis is required for any processing of personal data, as per GDPR.

Lisa Phifer:@Bradley, Steve - To be clear: the 9 comments cited all addressed consistency with ICANN's mission, expressing support and objections and suggesting alternatives. This diversity in responses told the leadership team that alternative phrasing might be needed to reach compromise.

Denny Watson:I don't know yet how I feel about this. I believe that previous points about creating "mischief" might apply here.

Vicky Sheckler:apologies, but i need to leave early

Sara Bockey:I will need to leave at the top of the hour for another meeting as well

Kathy Kleiman:+1 Tapani: Legal basis is required for any processing of personal data, as per GDPR.

steve metalitz:@Lisa, I think you are hearing that some of us do not view the change from "not inconsistent" to "consistent" as a compromise, at least until we have a clearer idea of how a criterion of "consistent with" would be applied.

Marika Konings:@Steve - who / how would a clearer idea be provided of how "consistent with" is applied?

steve metalitz:By having those who advocate for it answer Alan's question....?

Greg Shatan:Tapani & Kathy, what section of the GDPR are you referring to?

Kathy Kleiman:@Chuck/Lisa/Marika: what happened to "necessary to the functionality of the DNS" which seemed to have universal agreement last week?

Lisa Phifer:To reflect points raised thus far: Alternative Possible agreement: If applicable data protection laws require a lawful basis for processing, then any purpose must satisfy at least one lawfule basis for processing.

Marika Konings:@Steve - what is Alan's question?

Ayden Férdeline:legal vs lawful distinction is unclear to me

Michael Hammer:@Lisa, lawful not lawfule.

Lisa Phifer:With typo corrected: Alternative Possible agreement: If applicable data protection laws require a lawful basis for processing, then any purpose must satisfy at least one lawful basis for processing.

steve metalitz:@Marika, whether processing for the purposes of investigating DNS abuse (including by law enforcement) is consistent with ICANN's mission.

Sam Lanfranco:The terms lawful and legal differ in that the former contemplates the substance of law, whereas the latter alludes to the form of law. A lawful act is authorized, sanctioned, or not forbidden by law. A legal act is performed in accordance with the forms and usages of law, or in a technical manner.Lawful legal definition of lawful - Legal Dictionary - The Free Dictionary<https://legal-dictionary.thefreedictionary.com/lawful>

Tapani Tarvainen:Oppose lawful at least until I've got a clearer understanding what it would actually change.

Ayden Férdeline:i could live with "legal and lawful basis" but I am not sure yet the difference between legal/lawful...

Greg Shatan:Idiomatic phrases can be inaccurate.

Kathy Kleiman:@Lisa: can we put it in the record as "legal [lawful?]"

Bastiaan Goslings:@Greg S: see article 5 & 6 GDPR [https://urldefense.proofpoint.com/v2/url?u=http-3A\\_eur-2Dlex.europa.eu\\_legal-2Dcontent\\_en\\_TXT\\_-3Furi-3DCELEX-253A32016R0679&d=DwlFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB\\_UYInlydmFcjNmBM5XgySw&m=dYJsV0SYHOoLRalZNxgvyOr79dHMNNjAITZVKVUieFU&s=gDxa7\\_RMkH2\\_UeErhCA49x0I9541GLoXMgRbhvgXERU&e=](https://urldefense.proofpoint.com/v2/url?u=http-3A_eur-2Dlex.europa.eu_legal-2Dcontent_en_TXT_-3Furi-3DCELEX-253A32016R0679&d=DwlFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=QiF-05YzARosRvTYd84AB_UYInlydmFcjNmBM5XgySw&m=dYJsV0SYHOoLRalZNxgvyOr79dHMNNjAITZVKVUieFU&s=gDxa7_RMkH2_UeErhCA49x0I9541GLoXMgRbhvgXERU&e=)

Bastiaan Goslings:so it is 'lawful

Lisa Phifer:Art. 6 GDPR Lawfulness of processing: (1) Processing shall be lawful only if and to the extent that at least one of the following applies...

Greg Shatan:Article 5(1)(a) uses "lawfully"

Lisa Phifer:@Kathy, what comment do you wish included?

Michael Hammer:GDPR uses "lawful" not "legal".

Marika Konings:@Steve - maybe the parallel GDPR discussions will provide that answer?

Kathy Kleiman:@Lisa: that "legal" and "lawful" are going to be evaluated and the proposed change will be reviewed by the group for next week -- because it seems to be a substantive change with consequences

Michael Hammer:If we are going to pick nits then GDPR is a regulation and not a law.

Ayden Férdeline:we are not only talking about the GDPR @Greg

Lisa Phifer:@Kathy, please raise your hand to request that

Lisa Phifer:Repeating Alternative Possible agreement: If applicable data protection laws require a lawful basis for processing, then any purpose must satisfy at least one lawful basis for processing.

Greg Shatan:"lawful basis" is not really a valid concept.

Denny Watson:punt?

Greg Shatan:I want to be accurate....

Farzaneh Badii:I agree with Kathy, we need to think about it.

Bradley Silver:Are we still going to go through each purpose? And then decide whether each one satisfies (a) and (b)?

Greg Shatan:@Denny, intentional grounding?

Ayden Férdeline:great suggestion @kathy + 1

Michael Hammer:If (b) wording is not resolved then it is not possible to go through each purpose to see if that purpose satisfies (b).

Greg Shatan:Silva, that is why there is reference to “applicable data protection laws”. It would have to be lawful under the applicable law.

Lisa Phifer:@Bradley, the intention is to go through all purposes again, after having reached some agreements on criteria

Volker Greimann:it depends on the lawfulness in the jurisdictions applicable to the provider of the data (which includes applicability of the GDPR to foreign providers when handling EU data subjects data)

Greg Shatan:Lisa, will we go through the criteria again for, after we see how they get applied to criteria?

Maxim Alzoba (FAITID):GDPR recognises only EU LEA, and all non-EU LEA do not fall into lawful (if data collected for them)

Maxim Alzoba (FAITID):law enforcement agencies

Denny Watson:I feel that the "legal basis" argument will be used as an argument by some to filter the data at a higher level before it get to a party that actually has the legal basis to process that data.

Michael Hammer:There is also the problem of jurisdictions making extraterritorial claims.

Maxim Alzoba (FAITID):+1 Michael

Michael Hammer:PERhaps we need block chain for registrations (only half a jest).

Volker Greimann:could be interesting.

Stephanie Perrin:I am uncomfortable with the idea of a small team. This is critically important, should be done in plenary

Lisa Phifer:Suggest that those arguing for each phrasing state their rationale for that phrasing and against the other phrasing

Stephanie Perrin:I need to do more research before I make that statement

Sam Lanfranco:@Michael The new EU Blockchain Observatory is likely to actually look at Distributed Ledger Technologies (Blockchain, tangle, etc.) for that purpose. It would take Blockchain 3.0 or so, and not the current version.

Lisa Phifer:If we don't know WHY people support or object a phrasing we will not reach true agreement

Daniel K. Nanghaka:Lets make the discussion open to the whole group and focus the discussion on GDPR effect

Ayden Férdeline:I can commit to reading the messages, but do not have the knowledge to comment on the distinction between the two words.

Tapani Tarvainen:"legal basis" occurs several times in GDPR. E.g., Article 13: "Where personal data relating to a data subject are collected from the data subject, the controller shall, at the time when personal data are obtained, provide the data subject with all of the following information: [...] the legal basis for the processing"

Bradley Silver:Kathy - definitely not true there was total agreement

Alex Deacon:@kathy - i don't recall "total agreement" last week.

Bradley Silver:Nope. Not even close to general agreement

Kathy Kleiman:Seemed very broad agreement...

Marika Konings:Not claiming to be an expert either, but isn't all processing required to be lawful as otherwise it would be unlawful, or am I missing something (so basically isn't this implicit in any recommendations the WG would put forward)?

Bradley Silver:Only if its an AND, not an OR.

Kathy Kleiman:do we have that level of detail Chuck?

Michael Palage:Kathy - I also have reservation about your proposed wording

steve metalitz:@Kathy there may have been about the same level of agreement for that as there was on last week's call for "not inconsistent with."

Kathy Kleiman:Phrasing from survey: inherent to the functionality of the DNS

Maxim Alzoba (FAITID):last week it was NamesCon

Bradley Silver:Agreement will depend on whether we are talking about whether its an additional factor, or a gating factor. So the AND/OR is pretty essential

Rod Rasmussen:Chuck's explanation sounds like an implicit "or"

Greg Shatan:@Chuck, that sounds like an "OR" to me.

Lisa Phifer:Chuck, one phrasing: A purpose for processing registration data must be inherent to the functionality of the DNS.

Tapani Tarvainen:accepting something by itself sounds like AND to me...

Rod Rasmussen:"must" = "and"

Greg Shatan:The question is whether it must be satisfied (which would be an AND).

Bradley Silver:Unfortunately trhat phrasing does not help either.

Lisa Phifer:@Rod, agree, that's AND

Lisa Phifer:And "may" is OR

Denny Watson:+1

Rod Rasmussen:"AND" is a non-starter for me

Alex Deacon:@chuck - agree it would be a problem.

Greg Aaron:"must be inherent to the functionality of the DNS." is highly limiting and does not apply to all the legitimate purposes we have identified.

Rod Rasmussen:@Greg - +1

Michael Palage:I believe I agree with Chuck - making this CRITERIA a MUST - potentially impedes innovation by Registry Operators

Michael Palage:Registry Operators should be permitted to add additional data fields for lawful business reasons

Denny Watson:But not the only reasson

Greg Shatan:What does "inherent to the functionality of the DNS" mean? Something required for the DNS to function at all, or to function as intended (with all the policies surrounding the DNS that have been created by ICANN)

James Galvin (Afilias):Is there an example of a purpose that is excluded by the use of the phrase under discussion?

Bradley Silver:Agree with Chuck. As a "must" it is too narrow.

Michael Palage:Also if ICANN begins denying Registry Operators from adding additional RDS data fields for lawful business reasons - clearly puts ICANN in a Data Controller position - Can ICANN.org please seek clarification from ICANN legal on this issue - it would be helpful to have this information/insight sooner, NOT later

steve metalitz:@Jim, Chuck gave two examples in his poll comment: Here are two examples fromICANN's mission from Bylaws Annexes G-1 & G-2 that I do not believe are 'inherent to the functionality of the DNS': prohibitions on warehousing of or speculation in domain names byregistries or registrars; reservation of registered names in a TLD that may not be registered initiallyor that may not be renewed due to reasons reasonably related to (i) avoidance of confusion amongor misleading of users, (ii) intellectual property, or (iii) the technical management of the DNS or theInternet (e.g., establishment of reservations of names from registration).

Rod Rasmussen:I think all the IP (trademark) attorneys may have something to say about this - being able to protect naming rights has nothing to do with the functionality of the DNS but is an important part of the ecosystem here.

Lisa Phifer:Chuck is this what you intend: One criteria the WG will consider when determining wheter a purpose for processing is legitimate is whether the purpose is inherent to the functionality of the DNS. This will not be the only criteria considered and is not a requirement that all purposes must satisfy.

Rod Rasmussen:@Lisa - long but I agree

James Galvin (Afilias):@steve - Thanks!

Michael Palage:+1 to Chuck and Lisa

Bradley Silver:+1 Greg A.

Ayden Férdeline:I am afraid I am not in agreement with your comments @Rod. Agreed that "being able to protect naming rights has nothing to do with the functionality of the DNS" but not sure I agree it is an important part of the DNS ecosystem. Would need to think about that before I agreed to such a statement, and could not do so in the 10 minutes we have left on this call...

Kathy Kleiman:+1 Chuck and Lisa

Lisa Phifer:This was discussed at length during the call on 16 January - perhaps replay that call for a better understanding

Lisa Phifer:"This" is "inherent to the functionality of the DNS"

Bradley Silver:Can someone articulate why this should be a standalone creiterion to consider?

Ayden Férdeline:Lisa's wording sounds acceptable to me

Greg Aaron:Ayden, are you suggesting we get rid of UDRP?

Kathy Kleiman::-) I don't think anyone is getting rid of the UDRP

Ayden Férdeline:do not imply anything that i did not say @Greg

Greg Aaron:If you are not ure that protect rights is relevant, then you don;t think ICANN sould have things like UDRP.

Marika Konings:I would recommend that people review the 16 January meeting as that may provide some further insights into the concept of 'inherent to the functionality of the DNS'

Ayden Férdeline:i said nothing of the sort and ask that you withdraw your misleading comment @Greg

Greg Aaron:It's not misleading. I'm pointing out what appeatrs to be a logical inconsistency.

Rod Rasmussen:@Ayden, my point is that we have issues that involve the workings of the Internet which you could trace back (convoluted in some cases) to functionality of the DNS, but other issues that involve just the actual characters themselves in their relation to ability to use/not use that are completely unrelated to any technical thing. Those rights protections systems (UDRP and others) rely on RDS data for both rights holders AND registrants to protect their respective interests.

Lisa Phifer:Statement to test in poll: "One criteria the WG will consider when determining whether a purpose for processing is legitimate is whether the purpose is inherent to the functionality of the DNS. This will not be the only criteria considered and is not a requirement that all purposes must satisfy."

Kathy Kleiman:tx for the discussion, All. I look forward to hearing what Andrew Sullivan says...

Marika Konings:One of the arguments was made that if the DNS breaks / falls apart without access to certain data, it should be required to be collected. Other criteria may not meet that standard (which does not mean that there is not a legitimate purpose for access to data already collected)

Ayden Férdeline:thank you for the clarification @Rod

Ayden Férdeline:that explanation is useful

Greg Shatan:Have we disambiguated "inherent to the functionality of the DNS"?

Marika Konings:DNS = Domain Name System

Maxim Alzoba (FAITID):bye all

Greg Shatan:Rod, it sounds like you are referring only to resolution of identifiers and the delivery of packets.

Marika Konings:we can use the ICANN glossary definition :-)

Greg Shatan:In other words, does the plumbing work?

Greg Shatan:I will take it in that narrower meaning.

Ayden Férdeline:thanks all

Vlad Dinculescu:Thanks all

Michael Hammer:Thanks all

Rod Rasmussen:@Greg - not necessarily that - e-mail depends on DNS for example - hence my "convoluted" and spam is an abuse issue.



Alex Deacon:thanks chuck!

Farzaneh Badii:bye

Benny Samuelsen / Nordreg AB:Bye

Tapani Tarvainen:thanks and bye all

Daniel K. Nanghaka 2:Thank you

Daniel K. Nanghaka 2:bye