

Adobe Connect: 26

Alan Greenberg (ALAC)	Julf Helsingius (NCSG)
Alan Woods (RYSG)	Kristina Rosette (RySG)
Alex Deacon (IPC)	Kurt Pritz (Chair)
Amr Elsadr (NCSG)	Marc Anderson (RySG)
Ashley Heineman (GAC)	Margie Milam (BC)
Ben Butler (SSAC)	Mark Svancarek (BC)
Benedict Addis (SSAC)	Matt Serlin (RrSG)
Brian King (IPC Alternate)	Milton Mueller (NCSG)
Chris Lewis-Evans (GAC Alternate)	Rafik Dammak (GNSO Council Liaison)
Farzaneh Badii (NCSG)	Sarah Wyld (RrSG Alternate)
Georgios Tselentis (GAC)	Stephanie Perrin (NCSG)
Hadia Elminiawi (ALAC)	Steve DelBianco (BC Alternate)
James Bladel (RrSG)	Thomas Rickert (ISPCP)

Audio Only:

None

Apologies:

Emily Taylor (RrSG)
Kavouss Arasteh (GAC)
Diane Plaut (IPC)
Leon Sanchez (ICANN Board Liaison)

Audio Cast (FOR ALTERNATES AND OBSERVERS)

Peak: 9 joined

View Only Adobe Connect:

31 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: (1/29/2019 07:05) Welcome to the EPDP Team Call #40 held on Tuesday, 29 January 2019 at 14:00 UTC.

Andrea Glandon: (07:05) Wiki Agenda Page: <https://community.icann.org/x/hZoWBg>

Rafik Dammak (GNSO Council Liaison): (07:57) hi all

Julf Helsingius (NCSG): (07:58) Hi, Rafik!
Georgios Tselentis (GAC): (07:58) hi everybody!
Chris Lewis-Evans (GAC): (07:59) Hi all
Mark Svancarek (BC): (08:01) Hello... for now!
Brian King (IPC): (08:01) Good day all
Thomas Rickert (ISPCP): (08:03) Hi all!
Amr Elsadr (NCSG): (08:11) Isn't the emergency meeting on the 14th? How would the 11th as a cut-off date work?
Marika Konings: (08:12) 11th Feb is the cut off date for the 21 Feb Council meeting - the 14th meeting is a special meeting that was already scheduled to allow for review and discussion of Final Report.
Amr Elsadr (NCSG): (08:12) Got it. Thanks Kurt.
Amr Elsadr (NCSG): (08:12) And thanks, Marika. :-)
Alan Woods (RYSG): (08:14) and I'm in (sorry all ... was on the phone but it would not let me in the room)
Matt Serlin (RrSG): (08:17) +1 Marc
Sarah Wyld (RrSG Alt): (08:18) well said, Marc
Georgios Tselentis (GAC): (08:18) + Marc
Alan Greenberg (ALAC): (08:19) Marc makes complete sense, but the calendar tells me that 11 Feb is 2 weeks from yesterday, And 2 weeks is typically how much time we need to get such approval.
Marika Konings: (08:20) As a reminder, a consensus call is not about asking people to express consensus for the report or recommendations, but it is about the chair indicating the consensus level he believes that have been achieved. Members are then asked to indicate whether or not these designations accurately reflect the positions of the group.
Thomas Rickert (ISPCP): (08:20) would be in favour of having multiple mini-consensus calls and thereby "peel the onion". The beauty of that would be twofold: We can go to our respective groups in increments and also, we can tick items off the list. So far, we have not really closed the discussion on too many items.
Thomas Rickert (ISPCP): (08:21) We took such approach in the CCWG and that made our lives much easier
Marika Konings: (08:22) For the PCRT, please see <https://community.icann.org/x/U4cWBg>
Benedict Addis - SSAC: (08:22) Here's my concern with mini-consensus: SSAC doesn't really have an issue with any of the individual conclusions we've reached. However, there's concern about systemic weakening of security when ALL of the recommendations are implemented.
Margie Milam (BC): (08:23) I have the same concern Benedict too
Terri Agnew: (08:23) 5 minutes to review (will be silence)
Farzaneh Badii (NCSG): (08:25) wow Benedict... how is that even possible
James Bladel (RrSG): (08:26) @Benedict "weaker" vs. the Temp Spec? or "weaker" vs. the pre-May 29th status quo?
Benedict Addis - SSAC: (08:27) @Farzi how is what even possible?
Farzaneh Badii (NCSG): (08:27) has the security been weakened because of the temp spec?
Hadia Elminiawi (ALAC): (08:29) mini-consensus might not be the best approach as in some cases you cannot look at a recommendation or purpose in isolation from the rest
Benedict Addis - SSAC: (08:29) @Farzi: Just as examples: transfer security; loss of ability to correlate malicious registrations; loss of public accountability
Farzaneh Badii (NCSG): (08:30) how is it possible that these recs weakens security when every step of the way you have made sure SSAC's concerns are addressed? spending so much time on access instead of talking about data protection of domain name registrants?
Kristina Rosette (RySG): (08:30) +1 to Thomas on the multiple, mini consensus calls.

Terri Agnew: (08:31) we are starting back up
Benedict Addis - SSAC: (08:31) @James weaker vs Temp Spec.
Mark Svancarek (BC): (08:31) Sounds good
Mark Svancarek (BC): (08:31) (THomas sounds good, that is)
Rafik Dammak (GNSO Council Liaison): (08:32) lets focus on reviewing rec #5. the timeline and process are already in the last agenda item
Farzaneh Badii (NCSG): (08:32) wow Benedict I am in avow really. first of all public accountability is a vague concept . I don't have to get my grand ma be publicly accountable for having a tomato garden website. I am really surprised you are saying this at this stage. your concerns all relate to "access"
Thomas Rickert (ISPCP): (08:33) Forget about thick / thin. We are creating something new.
Alex Deacon - IPC: (08:37) +1 marc - I like the concept of defining a minimum public data set. it would be helpful for this rec and others also I assume.
Berry Cobb: (08:38) @Alex - it is a topic for discussion in the Data Elements session later today.
Thomas Rickert (ISPCP): (08:38) Let's give this new creature a name: What about "Base set"
Thomas Rickert (ISPCP): (08:39) and then additional data elements asked for by the ry would be "additional data elements"
Mark Svancarek (BC): (08:39) I like "Base set" and "Base set plus additional elements"
Berry Cobb: (08:42) Note that Thick Whois at this stage is only adopted consensus recommendations from the Board. There is yet to be a consensus policy effective date.
Marika Konings: (08:42) Note that recommendation #22 already refers to Thick Whois as one of the policies that will need to consider how the EPDP Team recommendations potentially impact that policy and its implementation.
James Bladel (RrSG): (08:43) Kurt? Mute?
Thomas Rickert (ISPCP): (08:45) Alan +1
James Bladel (RrSG): (08:46) Agree with Alan. And to put another way: Registrars would NOT support transferring millions of records to a Registry that does not or cannot justify why they need this data.
Thomas Rickert (ISPCP): (08:46) Kurt, it is blown up already
Margie Milam (BC): (08:47) Let's ask Ruth about the thick registry model legality -- that's important
Alan Greenberg (ALAC): (08:48) I'll note that the list of elements in 5 is contingent on the tentative decisions we made about elimination of Admin.
Julf Helsingius: (08:49) Sorry, my AC locked up, had to restart
Ashley Heineman (GAC): (08:50) Just a note that I was tapped in for the GAC. Hello everyone, it's been a while.
Marika Konings: (08:50) Welcome back, Ashley!
Margie Milam (BC): (08:50) welcome back!
Farzaneh Badii (NCSG): (08:50) Hello Ashley :)
Stephanie Perrin (NCSG): (08:52) Sorry to be late folks. Hi Ashley, good to have you back.
Marc Anderson (RySG): (08:52) Ashley, welcome back!
Marc Anderson (RySG): (08:53) The IRT can't make (or change) policy
Alan Greenberg (ALAC): (08:53) Lost Kurt?
Chris Lewis-Evans (GAC): (08:53) lost here
Hadia Elminiawi (ALAC): (08:53) Hi Ashley welcome back
Thomas Rickert (ISPCP): (08:53) Again, the question before us is whether the comments warrant a change of the initial report. Let's please focus on that and not go back to square 1 with our discussion.
Alan Woods (RYSG): (08:53) yes .. me too
Sarah Wyld (RrSG Alt): (08:54) +1 Thomas
Thomas Rickert (ISPCP): (08:54) Alan G - right!!!!

Berry Cobb: (08:56) I stand corrected. My statement about Thick Whois and policy effective date was inaccurate. The Board has deferred compliance. (See the note and resolution on the Consensus Policy page.) https://urldefense.proofpoint.com/v2/url?u=https-3A-www.icann.org_resources_pages_registrars_consensus-2Dpolicies-2Den&d=DwlFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=k7uKdjSb7_ZjItyVqrCYHo_rKms9SFxImbYEJqG-y9I&m=QwWhLfte4DUVcaYsWZpF_6HqqcG9Cmf9ouJwKrXquw&s=5RpPDTLwGBDO0TBmdWDGPctIB1RCNRy49r03pZ7qpo&e=

Amr Elsadr (NCSG): (08:56) Thanks, Berry.

Thomas Rickert (ISPCP): (08:56) Say that again, please.

Terri Agnew: (08:58) 5 minutes to review (will be silence)

Thomas Rickert (ISPCP): (08:58) Kurt, can you please restate the conclusion on the previous item - rec 5?

Benedict Addis - SSAC: (08:59) +1 Thomas

Thomas Rickert (ISPCP): (08:59) I am confused as I am not sure we can just throw the work over the fence to the Thick Whois IRT. I think it does not belong there. Rather, I think we have all facts at hand do make a decision on what the base-set of data is that needs to be transferred and what additional data elements may travel based on additional requirements.

Thomas Rickert (ISPCP): (09:00) But maybe I misheard

Kristina Rosette (RySG): (09:03) I think Thomas may be correct - I thought the Thick Whois IRT was limited in scope to .COM, .NET and .JOBS. In that case, do they even have "jurisdiction" over existing "thick" registries? (I'm not sure how you squeeze this in under Consistent Labeling and Display.)

Sarah Wyld (RrSG Alt): (09:04) To refresh memories, here is the RrSG input on Purpose 12: <https://mm.icann.org/pipermail/gnso-epdp-team/2019-January/001358.html>

Terri Agnew: (09:06) we are starting

Marika Konings: (09:06) In relation to the questions raised in relation to thick WHOIS, the EPDP team refers commenters to the analysis in the Final Report for which data elements may be transferred from registrars to registries, but also noted that per recommendation #22, the impact of these recommendations on the Thick WHOIS policy will need to be assessed.

Alex Deacon - IPC: (09:06) my hand is up to tee up rec 12. happy to step aside for continued discussion on rec 5.

Marika Konings: (09:08) The recommendation itself would remain as is: "The EPDP Team recommends that the specifically-identified data elements under "[t]ransmission of registration data from Registrar to Registry" within the data elementsworkbooks must be transferred from Registrar to Registry. In the aggregate, these data elements are: <to be identified by DET team>."

Alan Greenberg (ALAC): (09:08) AN IRT is not empowered to change the policy recommendation.

Marika Konings: (09:09) Note it is not about passing on work, but it is about assessing the impact of these policy recommendations on existing policies. (per rec #22)

Marika Konings: (09:09) @Alan - an IRT can refer any policy questions back to the GNSO Council

Margie Milam (BC): (09:09) I agree with Kurt's approach on the IRT reference

Stephanie Perrin (NCSG): (09:10) No Thomas, it is not just you.

Margie Milam (BC): (09:12) yes

James Bladel (RrSG): (09:12) I can hear Marika

Alex Deacon - IPC: (09:13) kurt line seems to be 5 seconds delayed from the rest of us.

Hadia Elminiawi (ALAC): (09:13) +1 Marika

Thomas Rickert (ISPCP): (09:13) Thanks Marika, but then the policy work is totally twisting in the wind....

Stephanie Perrin (NCSG): (09:13) Would it not be better to make a strong statement that the entire Thick policy had been made in the absence of reflection on DP law, and call for a complete overhaul?

Amr Elsadr (NCSG): (09:14) @Stephanie: That works for me. In fact, the thick whois pdp wg final report effectively said the same thing. :-)

Amr Elsadr (NCSG): (09:15) Maybe not the overhaul part, but the absence of reflection on DP law was in there.

Brian King (IPC): (09:15) +1 Margie and Marika

Alex Deacon - IPC: (09:16) i think its you kurt

James Bladel (RrSG): (09:16) I think it's just Kurt.

Margie Milam (BC): (09:16) im done

Hadia Elminiawi (ALAC): (09:16) it is impossible for us now to start looking into other policies and the impact of our work on them - though it is clear that modifications will be needed

Marc Anderson (RySG): (09:18) Thomas cut out at the end for me

Thomas Rickert (ISPCP): (09:20) That makes sense, Kurt!

Thomas Rickert (ISPCP): (09:20) Thanks!

Amr Elsadr (NCSG): (09:20) I believe so, Kurt.

Thomas Rickert (ISPCP): (09:21) Thanks for your patience again, Alex!

Farzaneh Badii: (09:22) sorry I dropped off

Amr Elsadr (NCSG): (09:22) @Alex: +1 to changing access to disclosure.

Brian King (IPC): (09:23) thanks Amr, merely helps to clarify and distinguish the concept

Steve DelBianco (BC - ALT): (09:23) @Amr -- we adopted the terms Publish, Disclose, and Access per conversations with you in Barcelona

Steve DelBianco (BC - ALT): (09:24) Recc 12 is about Disclosure Requests, under what the TempSpec called "reasonable access"

Amr Elsadr (NCSG): (09:24) Right Steve. Helpful to be more specific with these terms.

Alan Woods (RYSG): (09:28) go for it! :)

Steve DelBianco (BC - ALT): (09:31) Sarah, it would help to understand what parts of the text displayed in Adobe you object to.

Sarah Wyld (RrSG Alt): (09:31) Please not ethat everything I said was also sent by email

Matt Serlin (RrSG): (09:31) +1 Sarah

Sarah Wyld (RrSG Alt): (09:31) including a redline of the text in the chat

Steve DelBianco (BC - ALT): (09:31) Thanks, Sarah

Sarah Wyld (RrSG Alt): (09:31) sorry, in the main window. the pdf.

Sarah Wyld (RrSG Alt): (09:31) Thanks Steve!

Marika Konings: (09:32) If preferred, I can pull up the RrSG redline version?

Marika Konings: (09:32) the version up on the screen is the original one as submitted by Alex

Thomas Rickert (ISPCP): (09:33) On the language for responses, there should be flexibility for the CPs. Resonses might need to be different than what has been offered and a response may also be to provide a subset of the data that has been requested.

Brian King (IPC): (09:33) +1 Thomas, I think that's captured in the language.

Sarah Wyld (RrSG Alt): (09:34) Agreed - each requested data element needs a legal basis as to why it shoul db e disclosed.

Sarah Wyld (RrSG Alt): (09:35) one thing I forgot to say - we do agree with the list of what the requestor should provide, in Alex's (and steve's?) proposed version (on screen now).

Alan Woods (RYSG): (09:35) i agree .. but lets rememebr that ultimately it will be the Data Controller's duty to ensure that have the proper grounding for disclosure. So if proper detail is not provided the CP will have to be careful ... the important part iin this proposal, that the CP communicates that they need this detail, and not explain the WHY or the reason for delay etc.

Alan Woods (RYSG): (09:36) darn and that they do explain ... not that they don't explain ... sigh

Sarah Wyld (RrSG Alt): (09:37) Amr - good point, volume can be *significant*. I think the first response, confirming receipt, can be automated. The second one (here's the info we think you're allowed to have) - that's why I think 30 days is more reasonable

James Bladel (RrSG): (09:37) Missing ePDP = Silver lining to the Shutdown. :)

Amr Elsadr (NCSG): (09:37) @Kurt: I'm not sure that Sarah's comment/email addressed the volume of requests issue. Just what would qualify as a reasonable timeline for responding to requests.

Amr Elsadr (NCSG): (09:37) Thanks, Sarah.

Milton Mueller (NCSG): (09:38) we have threatened to shut down the EPDP unless a wall is built around customer data

Sarah Wyld (RrSG Alt): (09:38) @amr @kurt - right , volume was a consideration in our suggested timelines, but not something I had spelled out specifically

Alan Woods (RYSG): (09:38) @milton .. actual snort laugh

Milton Mueller (NCSG): (09:39) too bad your mic was off

Alan Woods (RYSG): (09:39) :)

Alan Woods (RYSG): (09:39) thats a very fair point James

Sarah Wyld (RrSG Alt): (09:40) +1 James

Alex Deacon - IPC: (09:40) we need to set policy that address concerns of all involved.

Ashley Heineman (GAC): (09:40) Question - what is the level of disclosure requests currently received? When asking registrars, I often hear the requests are negligible at this point in time.

Sarah Wyld (RrSG Alt): (09:41) Ashley - we have a blog post coming wiht stats about our Tiered Access program! Should be posted sometime in February.

Sarah Wyld (RrSG Alt): (09:41) Definitley not negligible.

Amr Elsadr (NCSG): (09:42) @Ashley: Check this out: https://urldefense.proofpoint.com/v2/url?u=http-3A_domainincite.com_23233-2Dfacebook-2Dclashes-2Dwith-2Dregistrars-2Dafter-2Dmassive-2Dprivate-2Ddata-2Drequest&d=DwIFaQ&c=FmY1u3PjP6wrcrwlI3mSVzgfkbPSS6sJms7xcl4I5cM&r=k7uKdjSb7_ZjItyVqrCYHo_rKms9SFxImbYEJqG-y9I&m=QwWhLfte4DUVcaYsWZpF_6HqqqcG9Cmf9ouJwKrXquw&s=_of3vJ9cnM9giQX1FRTKySejyZxxNJPj0J2aGo5DDJg&e=

Ashley Heineman (GAC): (09:42) THanks! I imagine though, that clearly articulated information on what needs to be provided for requests would temper random/eroneous requests. P.S. sorry for horrible spelling.

Ashley Heineman (GAC): (09:43) IE: the random whois snoopers like myself won't be doing WHOIS information requests as what may have been seen prior to implementtaion of the temp spec.

Alex Deacon - IPC: (09:44) perhaps we need a concept of "priority".

Farzaneh Badii (NCSG): (09:44) there is not gonna be immediate relief. it's not a matter of life or death to have access to personal info

James Bladel (RrSG): (09:44) A subpoena/warrant/court order is always an "Express Lane", of course.

Sarah Wyld (RrSG Alt): (09:44) +1 James

Ashley Heineman (GAC): (09:45) I'm flexible on time period. As long as it is reasonable.

Milton Mueller (NCSG): (09:45) Ashely can i name my garage band the "Random Whois Snoopers"?

Ashley Heineman (GAC): (09:45) Should I trademark it then Milton?? :-)

Chris Lewis-Evans (GAC): (09:45) Sorry James court order across jurisdiction is never an express lane

James Bladel (RrSG): (09:45) Legal/LEA processes will always pre-empt our need for manual review. It's the extra-legal requests that will take more time.

Matt Serlin (RrSG): (09:45) I think this language would make us more comfortable to address James' point..."without unreasonable delay, but ordinarily not more than 30 business days from receipt."

Milton Mueller (NCSG): (09:46) heheh as a govt employee you have foresworn all IPR claims
Sarah Wyld (RrSG Alt): (09:46) Good language Matt
James Bladel (RrSG): (09:46) @Chris - express lane for us. Not commenting on how long it takes to get a warrant.
Chris Lewis-Evans (GAC): (09:46) :)
Kristina Rosette (RySG): (09:46) +1 Matt
Alan Woods (RySG): (09:46) agreed +1 Matt.
James Bladel (RrSG): (09:47) @Matt - I cannot guarantee we won't have a 30day backlog at some point. It's a total Unknown.
Alan Woods (RySG): (09:48) ordinarily covers that i assume ... But i'm more perturbed by the concept that a data subject, for whom the GDPR is written, are secondary in data rights to that of the 3rd parties! ...sigh. I'm sorry but if it's good enough for the EU, it should be good enough for the us!
Milton Mueller (NCSG): (09:49) when demand exceeds supply you set a price. Amazing how markets work. Requestors should pay for the service
Alan Woods (RySG): (09:49) I would also say, if there is immediate harm, and a 3rd party is involved (and not law enforcement) there are more direct methods and indeed powers under Article 6(1) that would be more useful.
Alan Woods (RySG): (09:49) *involved
Milton Mueller (NCSG): (09:49) even if it's pennies per requests, it prevents abuse. It's not a free lunch
James Bladel (RrSG): (09:50) @Milton - absolutely, especially if reviewing/fulfilling disclosure requests becomes a significant cost burden for Registrars.
Alex Deacon - IPC: (09:50) +1 Thomas.
Brian King (IPC): (09:50) FWIW, GDPR says "one month" not "30 days" or "30 business days"
Kurt Pritz: (09:50) @Thomas, conceded
Steve DelBianco (BC - ALT): (09:51) Exactly, Thomas. Interested to hear Sarah confirm we permanently need Disclosure Requests, since not every requestor will be able to be an Accredited Requestor
Margie Milam (BC): (09:51) using the word "ordinarily" doesn't work because it isn't enforceable by compliance dept.
Alex Deacon - IPC: (09:52) if the basis is 6.1.f then it is assumed a balancing test will take place.
Brian King (IPC): (09:52) To be clear, this does not require the CP to disclose - only to respond.
Brian King (IPC): (09:52) Response can be "no"
Ashley Heineman (GAC): (09:52) Thomas - I don't see this as "requiring disclosure" it only requires an responding in a standardized/reasonable way. IE: the response could be "no"
Matt Serlin (RrSG): (09:52) We haven't yet developed a framework for Accredited Requestors so this feels like a premature discussion
Ashley Heineman (GAC): (09:53) THIS is just setting expectations of how to submit requests and that there will be a response.
Ashley Heineman (GAC): (09:53) Thomas - those issues will be developed as part of the access model. At least that was my understanding.
Brian King (IPC): (09:53) Matt this is something we have to decide in Phase 1 as it's in the Temp Spec.
Chris Lewis-Evans (GAC): (09:54) Thomas why is this limited to 61f?
Thomas Rickert (ISPCP): (09:54) Chris, it is not, but local legal requirements might be totally different from those listed here.
Thomas Rickert (ISPCP): (09:55) Remember, the ART. 29 WP stated that disclosure should take be facilitated (my words, paraphrasing here), but "subject to applicable laws" That, we have not yet worked on.
Sarah Wyld (RrSG Alt): (09:57) Thanks Steve, thinking on it now
Sarah Wyld (RrSG Alt): (09:57) *now

Georgios Tselentis (GAC): (09:57) @ Thomas trying to understand your point: did you say that if LEAs use 61c they cannot later invoke 61f?

Farzaneh Badii (NCSG): (09:57) so you will have to policies for disclosure? one for now one for the road?

Steve DelBianco (BC - ALT): (09:58) @Farzi -- one for Unified Access via ICANN, and one for other disclosure requests. This is reality, Farzi

Thomas Rickert (ISPCP): (09:58) @Georgios, in my view, 61f is blocked for (at least European) law enforcement authorities where disclosure requests fall into their core mandate.

Thomas Rickert (ISPCP): (09:58) Quote from the GDPR Art 6: 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): (09:59) Various academic comments on that clause confirm the position I mentioned.

Thomas Rickert (ISPCP): (09:59) There may be other views and solutions for non-EU LEA in particular. I would appreciate your view on this.

Sarah Wyld (RrSG Alt): (09:59) @Steve - "I do not see a need to have two different separate policies for how data can be disclosed. If someone cannot get accredited for access under UAM then should they really have the data? However I think this is premature, and is really more of a Phase 2 conversation."

Chris Lewis-Evans (GAC): (09:59) @Thomas yes as 61(e) is more relevant if the request is part of its core function covered by legislation

Farzaneh Badii (NCSG): (10:00) @ Steve, it's your opinion Steve. not the reality

Margie Milam (BC): (10:01) How about: Urgent requests for disclosure related to cybersecurity, phishing or DNS abuse to be prioritized and responded by XX days, provided that the request is supported by additional documentation that supports the request for urgency.

Alan Greenberg (ALAC): (10:02) BUT note that it may be quite some time before we have a fully implemented access model - My guess would be years.

Stephanie Perrin (NCSG): (10:03) +1 ALan. File under not so simple...

Alan Greenberg (ALAC): (10:04) Support Ashley.

Georgios Tselentis (GAC): (10:04) A greek saying: "nothing more permanent than the temporary"

Margie Milam (BC): (10:04) +1 Ashley

Sarah Wyld (RrSG Alt): (10:04) George that is a fantastic saying! I always say "temporary" truly means "indefinite"

Margie Milam (BC): (10:06) +1 - Brian

Hadia Elminiawi (ALAC): (10:07) +1 ashley, alan and margie

Steve DelBianco (BC - ALT): (10:08) @Farzi -- When I said "reality" I mean that some requestors who are not accredited will ask for lawful Disclosure. So we need a policy for that

Alex Deacon - IPC: (10:08) a break would be great....

Margie Milam (BC): (10:08) I have to go offline in a few min & drive to catch my bus & then will be back online

Sarah Wyld (RrSG Alt): (10:08) Why would'nt our response to be that they should get accredited?

Benedict Addis - SSAC: (10:08) @staff: do we know what days (and times) we'll be meeting in Kobe?

James Bladel (RrSG): (10:08) Just a note that I'll drop at the bottom of the hour (0:30, about 22 min from now)

Milton Mueller (NCSG): (10:08) Rec 1 should be VERY short

Hadia Elminiawi (ALAC): (10:09) @kurt ok good

Marika Konings: (10:09) @Benedict - a separate email was sent out during the Toronto meeting with the meetings that have been requested, but note that it will need to be decided closer to the date which meetings are needed.

Brian King (IPC): (10:09) Sarah: that might be your response. But we (registrars) may have our own business and/or legal reasons to want to respond. Without having this policy in place, it would really put us in a bind to do so.

Marika Konings: (10:09) I am happy to resend it to you

Ben Butler (SSAC): (10:09) I also have to drop just before the :30 point.

Steve DelBianco (BC - ALT): (10:09) @Sarah -- UAM Accreditation will be quite rigorous and likely enable only requestors who are part of an organized group who can enforce a Code of Conduct. So not everyone will qualify for UAM, even though they will have legitimate purpose for a lawful disclosure.

Sarah Wyld (RrSG Alt): (10:11) @Steve - thanks, will think about that.

Terri Agnew: (10:12) will be silence during break

Milton Mueller (NCSG): (10:12) Sarah: As Steve knows, some of us challenge the whole idea of a blanket "accreditation" of "organized groups"

James Bladel (RrSG): (10:13) On another note, can I ask that folks stay focused to their respective constituency/SG? Realize that Brian, Margie, Ben and Benedict all can claim to speak on behalf of the interest of Registrars, but the RrSG has tapped me, Sarah (Emily) and Matt to speak on their behalf. Thx.

Brian King (IPC): (10:18) James just "reaching across the aisle" to say I get it :-)

Brian King (IPC): (10:19) Not purporting to represent the RrSG - sorry if that came across.

James Bladel (RrSG): (10:19) Understood, and I know it's just a desire for folks to share their diverse views. But everyone wears multiple hats...

James Bladel (RrSG): (10:19) For example, we have a very competent IP enforcement team at GoDaddy, but I would never speak on behalf of the IPC interests.

James Bladel (RrSG): (10:20) I would be a guppy swimming amongst much bigger fish

Terri Agnew: (10:21) we are back

Milton Mueller (NCSG): (10:23) you're welcome

James Bladel (RrSG): (10:25) It's more Quality Control

Hadia Elminiawi (ALAC): (10:25) Purpose 5

Benedict Addis - SSAC 2: (10:26) Sorry folks, laptop ran out of juice. Gotta love three hour calls.

Hadia Elminiawi (ALAC): (10:27) there was a suggestion that it could be part of purpose 5 (Compliance) not 6

Hadia Elminiawi (ALAC): (10:27) correct milton purpose 5

Alan Greenberg (ALAC): (10:28) Yes, Milton is correct, it is Purpose 5 not 6 (6 is UDRP, etc).

Ben Butler (SSAC): (10:29) Have to drop. Thank you all for some very lively discussions.

James Bladel (RrSG): (10:29) Dropping now. Thanks all.

Steve DelBianco (BC - ALT): (10:30) Research is often done in real-time investigations, not always for historical purposes. So "research" should be expanded to mean "research and threat response"

Milton Mueller (NCSG): (10:31) well, threat response is not "research" it's threat response and immediate.

Benedict Addis - SSAC 2: (10:31) No Steve, this purpose is not intended for 3rd investigations

Milton Mueller (NCSG): (10:31) And threat response pertains to a specific domain or actor, not a generalized access to bulk data

Sarah Wyld (RrSG Alt): (10:31) And wouldn't threat response fall under purpose 2, security stability etc?

Milton Mueller (NCSG): (10:31) yes, sarah

Benedict Addis - SSAC 2: (10:31) Yes that is my intention

Milton Mueller (NCSG): (10:32) + 1 Marc - this belongs in this "phase" not the next one

Steve DelBianco (BC - ALT): (10:32) thanks for replies. So you're saying that Research in this purpose context means gathering historical data?

Hadia Elminiawi (ALAC): (10:32) Research could be used to advance technological aspects related to security

Milton Mueller (NCSG): (10:34) It depends on whether ICANN is the controller, Alan

Alan Woods (RYSG): (10:35) didn't we establish in toronto that the research is not a 'primary purpose' it's a secondary purpose a compatable use of the data where necessary. This is ICANN Org's sole controllership really and i feel not really ePDP fodder..... buuut. ok.

Milton Mueller (NCSG): (10:35) It doesn't matter whether the registrars collect it and not ICANN

Farzaneh Badii (NCSG): (10:35) still ambiguous what personal info is needed. is this for future research?

Sarah Wyld (RrSG Alt): (10:35) +1 Alan

Alan Woods (RYSG): (10:35) Also a controller without data is not unusual at all

Hadia Elminiawi (ALAC): (10:36) @ Steve I think what we mean is using the historical data that is already collected

Alan Greenberg (ALAC): (10:36) @Alan, I explicitly ask Ruth about that. She said it was unusual, but there have been court decisions saying that it is legal and allowed. But it is still not common.

Milton Mueller (NCSG): (10:37) Are you saying Purpose 5 would include research as well as compliance?

Alan Greenberg (ALAC): (10:38) No, purpose 2

Milton Mueller (NCSG): (10:38) I think that would be much better than Purpose 2. I

Alan Greenberg (ALAC): (10:38) Under SSR.

Farzaneh Badii (NCSG): (10:38) but which personal data elements will be used? can you look into your research crystal ball and tell us?

Thomas Rickert (ISPCP): (10:38) Sorry all, but let me be blunt: We have spent so much time second guessing what data OCTO might be interested in for what reasons. Let's just put that to a halt until we get such requests.

Matt Serlin (RrSG): (10:38) +1 Thomas

Amr Elsadr (NCSG): (10:38) @Thomas: +1

Milton Mueller (NCSG): (10:38) No, it can't be purpose 2 ICANN is not a third party

Alex Deacon - IPC: (10:38) Margie wants to be in the queue

Alan Woods (RYSG): (10:38) Ah.... OK. The law and input from the DPAs is always clear that a data controller doe not require the data, merely that they exercise control over the processing (i.e directing the processing, influence, status etc.) but that does not add antyhthing. IF ICANN are controller and does not have the data, ICANN should as Controller... do their job.

Amr Elsadr (NCSG): (10:38) I don't see the research purpose fitting into purposes 2 or 5.

Alan Greenberg (ALAC): (10:39) @Thomas, the day they make the request, we would have to start a PDP to make it happen. That is not tenable.

Amr Elsadr (NCSG): (10:39) @Alan W: +1

Benedict Addis - SSAC 2: (10:39) Thomas that's already been addressed. This group didn't want a presentation from OCTO in LA.

Alan Woods (RYSG): (10:39) and igure out how to get it ... the eDPD should not be the people to do it

Benedict Addis - SSAC 2: (10:39) @Farzi hashed data only.

Thomas Rickert (ISPCP): (10:39) jNo presentation. Written requirements that we can check. If we do not get requirements from OCTO, we cannot do anything but get it wrong.

Alan Woods (RYSG): (10:40) (again all the typos .. sigh)

Alan Woods (RYSG): (10:40) +1 thomas

Farzaneh Badii (NCSG): (10:40) Benedict is hashed data subject to GDPR?

Farzaneh Badii (NCSG): (10:40) we discussed this didn't we?

Benedict Addis - SSAC 2: (10:40) No, probably not subject to GDPR.

Farzaneh Badii (NCSG): (10:40) so ? why are we discussing it?

Alan Greenberg (ALAC): (10:40) It is NOT 61f - ICANN is not a third party.

Benedict Addis - SSAC 2: (10:41) @Farzi because an entity (registry or registrar) will need to process the data (hashing it) for this purpose

Farzaneh Badii (NCSG): (10:42) so that would be registry registrar purpose?

Alan Greenberg (ALAC): (10:42) @Benedict, there is no need to raise the hashing issue if we put in in Purpose 2. That is an implementation issue. But the transfer to ICANN does need to be there.

Benedict Addis - SSAC 2: (10:43) @Farzi it's happening under ICANN policy so still an ICANN purpose

Benedict Addis - SSAC 2: (10:43) (in my proposal!)

Farzaneh Badii (NCSG): (10:43) Alan how come? is hashed data that is transferred subject to GDPR?

Margie Milam (BC): (10:44) so are we updating Purpose 2 to indicate that it can apply ICANN ORG

Alan Woods (RYSG): (10:44) we need to do a lot of work on the workbooks ... this is probably part of it lol

Benedict Addis - SSAC 2: (10:44) :)

Amr Elsadr (NCSG): (10:44) @Benedict: Apologies if I'm being thick, but what policy are you referring to, under which this is "happening"?

Milton Mueller (NCSG): (10:44) No it can't go in purpose 2

Benedict Addis - SSAC 2: (10:45) @Amr don't understand your question

Margie Milam (BC): (10:46) indiscriminate to ICANN?

Amr Elsadr (NCSG): (10:46) @Benedict: You said this above: it's happening under ICANN policy so still an ICANN purpose

Margie Milam (BC): (10:46) then let's make it a stand alone purpose

Alan Woods (RYSG): (10:47) I must say I'm with Milton on this. ... ICANN as controller should not have to request disclosure as a 3rd party it makes ZDRO sense. It's unwieldy and inefficient

Alan Greenberg (ALAC): (10:47) I was wrong before, it is not Purpose 2 because ICANN is not a third party.

Alan Woods (RYSG): (10:47) *Zero

Amr Elsadr (NCSG): (10:47) @Milton @Alan W @Alan G: +1

Margie Milam (BC): (10:47) then we need to identify a specific purpose

Benedict Addis - SSAC 2: (10:48) Sorry Amr, meant policy in sense of "contractual relationship" rather than a particular policy

Amr Elsadr (NCSG): (10:48) @Benedict: Thanks.

Margie Milam (BC): (10:48) Ruth told us we did need a separate purpose I think

Hadia Elminiawi (ALAC): (10:48) A separate purpose (that is being roughly right)

Alan Woods (RYSG): (10:49) Ahhhhhh come one! NO!

Benedict Addis - SSAC 2: (10:49) @Margie Ruth did not definitively opine

Alan Woods (RYSG): (10:49) We are too far gone now!

Margie Milam (BC): (10:49) so we should ask Ruth

Farzaneh Badii (NCSG): (10:49) no personal data will be sent to ICANN Alan for research

Alan Woods (RYSG): (10:49) OCTO have not told us what they are doing ./ indicated a need. it is not necessary for us to be 'compliant' with data protection law

Alan Woods (RYSG): (10:50) This is so far beyond out of scope

Thomas Rickert (ISPCP): (10:50) Well, you need to have a legal basis and purpose for transmitting the data to ICANN. If a controller has data, that controller can do the research. But here, we have joint controllers or - according to ICANN - independent controllers. In both cases, you need to have a legal basis for the transfer.

Farzaneh Badii (NCSG): (10:50) OCTO doesn't even say they need personal info. they might only need hashed data

Alan Greenberg (ALAC): (10:50) Or we can go back to treating it as an access issue.

Thomas Rickert (ISPCP): (10:51) Farzi, I think OCTO confirmed they do not need personal data. I

Amr Elsadr (NCSG): (10:51) @Alan W: Agree. This sort of issue has not been addressed by previous policy, and should be dealt with in a proper PDP with an issue scoping phase. ie: not appropriate for any EPDP, let alone this one.

Stephanie Perrin (NCSG): (10:51) Do we have a clear statement of the status of the various actors at this point? Critical in terms of the legal interpretation of "research" for GDPR.

Thomas Rickert (ISPCP): (10:51) I think we are wasting our time here....

Farzaneh Badii (NCSG): (10:51) yes they did

Stephanie Perrin (NCSG): (10:51) In other words, is ICANN acting as controller, joint controller, etc.

Farzaneh Badii (NCSG): (10:51) we have the answer Marika sent their answer so many times

Marika Konings: (10:52) As a reminder, previous responses on this question can be found here: <https://community.icann.org/x/ahppBQ>

Stephanie Perrin (NCSG): (10:52) Please can we remember that any data associated with a file is still personal data, may be anonymized etc etc

Farzaneh Badii (NCSG): (10:52) even in the future OCTO doesn't need personal data. it needs hashed data

Benedict Addis - SSAC 2: (10:53) @Farzi that still needs processing

Benedict Addis - SSAC 2: (10:54) Yes Farzi, exactly

Alan Woods (RYSG): (10:56) Can we also remind ourselves please that we are not discussing what ICANN should do in the future but wjhat ICANN does now

Alan Woods (RYSG): (10:56) *what

Alan Greenberg (ALAC): (10:57) @Alan - SSR is a dynamic issue. We need to make this work going forward.

Alan Greenberg (ALAC): (10:57) Why does adding it to Purpose to referencing ICANN "FOR SSR ISSUES"?

Alan Greenberg (ALAC): (10:58) Purpose 2

Stephanie Perrin (NCSG): (10:58) If you can trace the identity back to the individual, it is still personal data. ICANN would not have to have under its direct control the data necessary to link it, just has to be reasonably accessible e.g. from another party

Margie Milam (BC): (10:58) +1 Alan

Alan Woods (RYSG): (10:59) Well Alan .. you explain Dynamic need to the DPAs about how you tell registrants that we may/might/perhaps create a whole new use for the data at some point in the future.. It is not a use now, and we must therefore drop it and move on.

Margie Milam (BC): (10:59) +1 Alan G

Kristina Rosette (RySG): (10:59) Reminder - I asked Chris and Leon in Toronto to identify a new formulation for Purpose 2 if ICANN thought that our purpose formulation was incorrect. Crickets.

Amr Elsadr (NCSG): (11:00) @Alan: I don't think it's ludicrous at all. You were present when the rules were developed for use of an EPDP. Surely you recall what could and couldn't be addressed using one?

Hadia Elminiawi (ALAC): (11:00) SSR is an ICANN purpose and it does make sense that this should include using historical data for such purposes and GDPR allows that so why are we so hesitant about this

Margie Milam (BC): (11:00) would be nice to get ICANN to address your question Kristina

Alan Greenberg (ALAC): (11:00) This is a processing activity that has been deemed to be an ICANN right as a controller. All we have to do is ensure that the data can be transmitted.

Farzaneh Badii (NCSG): (11:01) this is what OCTO said: Also, in discussions that the EPDP Team has had regarding purposes, ICANN Office of the CTO (OCTO) has been mentioned. To inform the EPDP Team's continued discussion on this topic, ICANN Org would like to clarify that ICANN OCTO does not require personal data in domain name registration data for its work. For example, OCTO's Domain Abuse Activity Reporting (DAAR) project <https://urldefense.proofpoint.com/v2/url?u=https-3A_www.icann.org_octo-

[2Dssr_daar&d=DwlFaQ&c=FmY1u3PJp6wrcrwl3mSVzgfkbPSS6sJms7xcl4I5cM&r=k7uKdjSb7_ZjlyVqrCYHo_rKms9SFxlmbyEJqG-y9I&m=QwWhLfte4DUVcaYsWZpF_6HqqgcG9Cmf9ouJwKrXquw&s=-5MzBt4Btq6ipmMJy2F7B1k0falYoB05OijM7nhvOH0&e=>](https://mm.icann.org/pipermail/gnso-epdp-team/2018-December/001124.html) uses only the registrar and nameserver information.

Thomas Rickert (ISPCP): (11:01) Can I suggest we continue for another hour?

Thomas Rickert (ISPCP): (11:01) ...just kidding :-)

Matt Serlin (RrSG): (11:01) are we extending the call today???

Trang Nguyen (ICANN Org Liaison): (11:01) All, ICANN org has provided 2-3 responses regarding OCTO's use of registration data. If there are any additional questions, we would be happy to take them back to OCTO. I'll try to find the links to the previous responses. Here's the latest: <https://mm.icann.org/pipermail/gnso-epdp-team/2018-December/001124.html>.

Sarah Wyld (RrSG Alt): (11:02) Thanks Farzaneh for providing that info here.

Amr Elsadr (NCSG): (11:02) @Alan G: Deemed by who? Not our place as an EPDP Team to expand on the scope of the EPDP. ICANN didn't identify any PAs associated with research in the temp spec, or in the response to our question on this issue.

Steve DeBianco (BC - ALT): (11:02) maintenance includes registrant updating their information if they feel it is needed

Marika Konings: (11:03) Bottom of page 3

Alan Greenberg (ALAC): (11:03) @Amr, Milton and others have said that as a controller, this is something we can do. The only issue is that we

Marika Konings: (11:03) Purpose 1a/b

Hadia Elminiawi (ALAC): (11:03) being roughly right and including the research purpose is better than being precisely wrong and putting it under purpose 2 (as it now stands) or totally ignoring it

Alan Greenberg (ALAC): (11:03) do not have the data

Benedict Addis - SSAC 2: (11:04) Sorry all, got to drop.

Amr Elsadr (NCSG): (11:04) @Alan G: I'm not disputing the substance on this. Just saying that we can't make appropriate substantive recommendations with the information we currently have.

Kurt Pritz: (11:04) Scroll down to the bottom of page 3 on the document above

Stephanie Perrin (NCSG): (11:04) What precisely does ICANN control? as a data controller that is. I looked through Marika's list (thanks) and cannot find precisely where the scope of ICANN's control starts and stops.

Farzaneh Badii (NCSG): (11:05) here we go again...

Kristina Rosette (RySG): (11:05) Folks, we are past the 3-hour mark. As much as I enjoy our discussions, I have to drop to meet my actual work obligations.

Marika Konings: (11:05) So the question is, is there any concern in relation to adding 'maintenance' to the language for purpose 1.

Alan Woods (RySG): (11:05) we used to have maintenance in the wording before, did we not. I can't for the life of me remember where or why it went?

Brian King (IPC): (11:05) Support including "maintenance" in purpose 1 language

Farzaneh Badii (NCSG): (11:05) So how did you get here Under my skin? I swore that I'd never let you back in Should have known better Than trying to let you go 'Cause here we go go go again Hard as I try I know I can't quit ...

Milton Mueller (NCSG): (11:06) if you agree to get rid of "obligations" I could support adding "maintenance"

Margie Milam (BC): (11:06) @ Milton -- yes

Trang Nguyen (ICANN Org Liaison): (11:06) As I mentioned above, ICANN org has provided 3 responses relating to OCTO's use of registration. The links to those responses are <https://mm.icann.org/pipermail/gnso-epdp-team/2018->

[October/000495.html](https://mm.icann.org/pipermail/gnso-epdp-team/2018-October/000495.html); <https://mm.icann.org/pipermail/gnso-epdp-team/2018-October/000610.html>; <https://mm.icann.org/pipermail/gnso-epdp-team/2018-December/001124.html>.

If the EPDP Team has any additional questions for OCTO, Dan and I would be happy to take them back and get a response from OCTO.

Margie Milam (BC): (11:06) that is our proposal

Milton Mueller (NCSG): (11:06) stop shoveling? shoveling, um, what?

Hadia Elminiawi (ALAC): (11:07) @ Trang access is denied to the link

Matt Serlin (RrSG): (11:07) thanks all

Brian King (IPC): (11:07) Thanks all

Hadia Elminiawi (ALAC): (11:07) thanks all bye

Thomas Rickert (ISPCP): (11:07) T'hanks, Kurt and all!

Amr Elsadr (NCSG): (11:07) Thanks all. Bye.