Adobe Connect: 27

Alan Greenberg (ALAC)

Alan Woods (RySG)

Julf Helsingius (NCSG)

Kavloiuss Arasteh GAC)

Alex Deacon (IPC) Kurt Pritz (Chair)

Ben Butler (SSAC) Laureen Kapin (GAC Alternate)

Beth Bacon (RySG Alternate) Leon Sanchez (ICANN Board Liaison)

Chris Disspain (ICANN Board Liaison)

Collin Kurre (NCSG Alternate)

Diane Plaut (IPC)

Emily Taylor (RrSG)

Mark Svancarek (BC)

Matt Serlin (RrSG)

Farzaneh Badii (NCSG)

Milton Mueller (NCSG)

Georgios Tselentis (GAC) Rafik Dammak (GNSO Council Liaison)

Greg Aaron (SSAC Alternate)

Hadia Elminiawi (ALAC)

Sarah Wyld (RrSG Alternate)

Stephanie Perrin (NCSG)

Thomas Rickert (ISPCP)

Audio Only:

None

Apologies:

Ayden Férdeline (NCSG) Kristina Rosette (RySG) Ashley Heineman (GAC) Benedict Addis (SSAC) James Bladel (RrSG) Amr Elsadr (NCSG)

Audio Cast (FOR ALTERNATES AND OBSERVERS)

Peak: 7 joined

View Only Adobe Connect:

18 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: (2/11/2019 07:02) Welcome to the EPDP Team Call #45 held on Monday, 11 February 2019 at 14:00 UTC.

Andrea Glandon: (07:02) Wiki Agenda Page: https://community.icann.org/x/TJ0WBg

Leon Sanchez: (07:58) Hello everyone

Rafik Dammak (GNSO Council Liaison): (07:58) hi all

Hadia Elminiawi: (07:58) Hi all

Chris Disspain (ICANN Board Liaison): (07:59) Greetings All

Georgios Tselentis (GAC): (08:00) Hi everybody

Thomas Rickert (ISPCP): (08:03) Hi all!

Kavouss Atrasteh (GAC): (08:03) Kurt, Secretariat, how many motre meeting we woll have and when pls?

Alan Greenberg (ALAC): (08:06) Is there a doc for the workbook updates?

Marika Konings: (08:08) @Alan - we included the latest version of the work books in the version of the Final Report that was circulated on Friday, but the small team has been making some further updates over the weekend so the latest and hopefully final version will go into today's version (an update on the data elements workbooks is also on the agenda)

Berry Cobb: (08:09) @Alan - here is the latest

workbook: https://community.icann.org/display/EOTSFGRD/e.+Data+Elements+Workbooks Top two rows are the most recent versions.

Berry Cobb: (08:09) As Marika pointed out, the version posted on the wiki is what will be loaded into the final report before delivery to the Council.

Kavouss Atrasteh (GAC): (08:13) I still suggesgt to delete ionformally and leave it to the GNDSO and ICANN

Alex Deacon - IPC: (08:18) I'll note the language says they can "continue to implement measures consistent with the temp spec". vs. with the (expired) temp spec. This seems vague and unclear to me.

Kavouss Atrasteh (GAC): (08:19) By the last paragraph, we encourage or provide liberty to Registries and Registrar to continue to implement current Temp Spec. I have difficulty with that

Leon Sanchez (ICANN Board Liaison): (08:20) @Alex wouldn't that vagueness disappear with the following paranthesis "(as adopted by the ICANN Board on 17 May 2018, and expired 25 May 2019)" Georgios Tselentis (GAC): (08:20) The problem Kavouss is mentioning comes before with the use of "Either" "Or". The language should ask for compliance with the policy and only if for justified reasons this is not possible to fall back to the Temp Specs as necessary

Marika Konings: (08:21) @Kavouss - after the implementation effective date, all CPs will have to follow the new policy, until that time, they can either follow the new policy or follow the temp spec requirements to avoid a gap after the temporary specification expires after 25 May.

Kavouss Atrasteh (GAC): (08:21) Plerase delete "Informally" and leavde it to GNSO and ICANN to define the formal or informally. They know their job.

Alex Deacon - IPC: (08:21) @leon - the phrase "consistent with" causes the vagueness IMO.

Marika Konings: (08:22) as Beth explained, some implementation is required before the new policy can take effect, so this ensures that in that interim period, there is not a gap with no requirements being followed.

Beth Bacon (RySG): (08:22) Exactly, Marika. Thanks!

Leon Sanchez (ICANN Board Liaison): (08:22) @Kavouss I would see it as having a deadline for implementation. To me, the language seems to provide a way for Registries and Registrars to get up to speed as soon as possible with the new policy while allowing them to be safe from suffering compliance enforcement as long as they continue to be compliant with the expired temp spec but it also puts an end to that condition establishing that they should all be compliant with the new policy as of February 29, 2020

Alan Greenberg (ALAC): (08:24) @Kavouss, it is a matter of the time it will take to implement the changes.

Emily Taylor (RrSG): (08:24) Thanks Leon. I agree with your interpretation

Matt Serlin (RrSG): (08:25) agree with Leon's statement above

Kavouss Atrasteh (GAC): (08:26) Add, shjould junder certzaionm cirmustances and continue

Kavouss Atrasteh (GAC): (08:27) Add, should under certzaionm cirmustances and continue

Diane Plaut (IPC): (08:27) As discussed it allows for imlementation prior to that date, if possible

Marika Konings: (08:27) In the implementation phase, policy recommendations are translated into contractual requirements, where appropriate, and some of the operational details are fleshed out - this takes some time as a result of which the new policy is not effective on the data of Board adoption but from the implementation effective date which is announced once the Implementation Review Team completes its work.

Diane Plaut (IPC): (08:28) Will do

Marika Konings: (08:28) Hence this solution to avoid a gap by either allowing CPs follow the new policy or temporary specification requirements

Kavouss Atrasteh (GAC): (08:28) As discussed it allows for imlementation prior to that date, if possible

Kavouss Atrasteh (GAC): (08:29) Please add the qualifier at the beging as follows"

Kavouss Atrasteh (GAC): (08:29) Should under certain circiumstances registries and

Rafik Dammak (GNSO Council Liaison): (08:31) @kavouss that was an unwarranted comment

Thomas Rickert (ISPCP): (08:32) Let me emphasize my appreciation for our great support staff!

Kavouss Atrasteh (GAC): (08:33) Thanks Georges

Kavouss Atrasteh (GAC): (08:33) I confirm your understanding

Kavouss Atrasteh (GAC): (08:34) Raffic, you misunderstood me

Kavouss Atrasteh (GAC): (08:35) I said when a question is raised to the chair, he is the first one who should react that is all

Kavouss Atrasteh (GAC): (08:38) pls add,

Kavouss Atrasteh (GAC): (08:40) Should under certain circumstances registries and regristrars d< Georgios Tselentis (GAC): (08:41) I understood that the reason for not implementing the policy would be for practical reasons not because this is not a consnsus policy

Alan Greenberg (ALAC): (08:41) I can live with it. If a Rr/Ry wants to delay "with no reason" until 29 Feb, so be it! Otherwise it is ok.

Marika Konings: (08:41) @Georgios - as I understand, it only becomes a 'consensus policy' once implemented, which is a required step of the policy development process.

Hadia Elminiawi (ALAC): (08:42) + 1 Alan

Diane Plaut (IPC): (08:42) Thanks Kurt - so we will take any discussion to the list

Marika Konings: (08:42) For further details on implementation, please

see https://urldefense.proofpoint.com/v2/url?u=https-

<u>3A www.icann.org policy implementation&d=DwIFaQ&c=FmY1u3PJp6wrcrwll3mSVzgfkbPSS6sJms7xc</u> l4l5cM&r=k7uKdjSb7 ZjItyVqrCYHo rKms9SFxImbYEJqG-y9I&m=Dte-

<u>8TPcWNGUSAAcOgXZRuqyKPFKGi92GXkcz6r2muM&s=uMWAvQMxYzDyGkxaZTAnVBhMnYd_wPRZ45Ku</u>q5UKNhI&e=

Diane Plaut (IPC): (08:43) Thank you Thomas - all appreciate your inputs here

Thomas Rickert (ISPCP): (08:48) Mark, can you share what you are missing and we can all think about additional language?

Mark Svancarek (BC): (08:50) @Thomas, working on it:)

Alan Woods (RYSG): (08:51) sorry all... bad line again it appears!!! I'll reconnect once i get a chance Andrea Glandon: (08:53) finding the line

Emily Taylor (RrSG): (08:56) @Laureen, can you clarify, is your proposal just to delete the new text (in bold and square brackets at the end)?

Laureen Kapin (GAC Alternate): (08:56) Yes, consistent with Ashley's message, our proposal is to delete the parenthetical.

Emily Taylor (RrSG): (08:57) Thanks for confirming, Laureen.

Kurt Pritz: (08:57) I think Thomas' suggestion is largely consistent with Ashley's email on this - is it not? Laureen Kapin (GAC Alternate): (08:58) I don't think so Kurt, Ashley stated "I believe those concerns are best addressed elsewhere. The singular intent of Recommendation 12 is to provide clarity around the process and expectations of reasonable lawful disclosure in terms of making requests. The recommendation attempts to ensure that expectations are set for how to submit requests and in what fashion those requests will be handled once received. The Recommendation does NOT assume that disclosure will be made and, further, it isn't even contemplated how and on what basis a decision for disclosing (or not) will be made. Those issues are to be dealt with in Phase 2 and/or otherwise in a specific access discussion."

Kavouss Atrasteh (GAC): (09:02) Following Laureen statement, may we just raise the issue raised by Thomas but instead of proposing a solution just indicating that this issue requires further discussion at Phase II

Ben Butler (SSAC): (09:04) Question... If we do not include language like this proposed by Thomas, do we have anything in the final report that captures that we ARE going to deal with LE in phase 2?

Kavouss Atrasteh (GAC): (09:04) Please delete the text and add a note indicating the issue raised by Thjomas and proposing that the matter requires further study to be performed in Phase II

Emily Taylor (RrSG): (09:05) Kurt-I have my hand up on this issue, and have a suggestion

Georgios Tselentis (GAC): (09:05) Can we add after ".....requests." which will be thoroughly examined at phase 2.

Georgios Tselentis (GAC): (09:06) and delete the rest

Kavouss Atrasteh (GAC): (09:06) kurt I queued before Emily

Milton Mueller (NCSG): (09:08) +1 Emily

Thomas Rickert (ISPCP): (09:09) I am happy to delete this, wanted to help manage expectations, but if you do not see the need for that, so be it.

Milton Mueller (NCSG): (09:09) Let's go with the first suggestion, just delete it

Milton Mueller (NCSG): (09:10) Do not support Margie's suggestion

Alan Woods (RYSG): (09:10) now i want to get back on this!

Milton Mueller (NCSG): (09:10) +1 Kurt. Do not disturb

Alan Woods (RYSG): (09:10) +1 milton

Kavouss Atrasteh (GAC): (09:11) Pls ask if there is a major objdection to deldete the sentence added by Thjomas

Farzaneh Badii (NCSG): (09:11) +1 on deletion

Kavouss Atrasteh (GAC): (09:11) Sorry, Thomas

Collin Kurre (NCSG): (09:12) I'd be find with removing the caveat at this point, particularly knowing the finer details of access will be worked out in the next phase

Farzaneh Badii (NCSG): (09:14) +1 Alan Thomas Rickert (ISPCP): (09:14) +1, Alan

Emily Taylor (RrSG): (09:15) I agree with Alan's comments on the 'requests' point. We will be moving forward with a full analysis of mechanisms for lawful access in Phase II. This recommendation doesn't do lawful access in its entirety, but just puts down some pointers.

Collin Kurre (NCSG): (09:15) +1 Alan — the request is a key component of the process, particularly in terms of checks/safeguards

Milton Mueller (NCSG): (09:15) Are we proposing to change the title of Rec 18?

Alan Woods (RYSG): (09:15) guys i'm going to reconnect to get a better line ... BRB

Emily Taylor (RrSG): (09:16) @Milton, 'the artist formerly known as Recommendation 12'?

Milton Mueller (NCSG): (09:16) LOL

Milton Mueller (NCSG): (09:16) The artful dodger is more like it

Hadia Elminiawi (ALAC): (09:17) revert it back to what?

Alan Woods (RYSG): (09:18) back ... sorry about that

Alan Woods (RYSG): (09:19) no its not Hadia

Hadia Elminiawi (ALAC): (09:20) @Kurt you may be correct that the result is the same

Milton Mueller (NCSG): (09:22) If you call it requests, you make it clear that it is a request and not an automatic demand

Milton Mueller (NCSG): (09:22) And there is no disclosure without a request.

Collin Kurre (NCSG): (09:22) +1 milton

Mark Svancarek (BC): (09:23) The word "request" remains in the text. There is no "demanding"

Milton Mueller (NCSG): (09:24) then why do you want to remove it from this part?

Hadia Elminiawi (ALAC): (09:25) @Kurt the result may be the same but as Marc just said the purpose is not the request but the purpose is the response whether it is disclosure or denial to disclosure

Milton Mueller (NCSG): (09:25) this is a pretty silly debate in my opinion. The whole thing is about how we handle requests for disclosure

Alan Woods (RYSG): (09:26) And thank you Kavous for proving my point!

Alan Woods (RYSG): (09:26) Not about disclosure.

Mark Svancarek (BC): (09:27) @Milton, the text "Requests for Lawful Disclosure" remains in some instances. But I feel that in other places Reasonable Lawful Disclosure is more appropriate. Note that in the proposed language, there are instyances of bot. I am sorry if it wasn't clear that I am supporting the text as submitted here, not proposing any changes

Mark Svancarek (BC): (09:27) instances of both

Milton Mueller (NCSG): (09:27) You have not given any reason to eliminate the word "requests," other than some kind of absurd wordsmithing that attempts to blur the fact that this is about requests and not automatic

Milton Mueller (NCSG): (09:28) I don't think we have time for these games. they accomplish nothing Thomas Rickert (ISPCP): (09:28) Are we going to have a break in this call?

Margie Milam (BC): (09:31) +1 Laureen

Alex Deacon - IPC: (09:31) +1 Laureen - Thte details of Rec 12/18 covers both requests and responses. IPC is OK with either the original or new (proposed by Ashley) wording.

Milton Mueller (NCSG): (09:32) So nothing that Laureen said would justify removing the word "requests"

Thomas Rickert (ISPCP): (09:33) I fail to understand what harm is done if we keep the language "requests". Requests start the process we have specified.

Diane Plaut (IPC): (09:33) +1 Thomas

 $Hadia\ Elminiawi\ (ALAC): (09:34)\ @thomas\ if\ the\ result\ is\ the\ same\ I\ am\ fine\ with\ the\ recomendation$

Thomas Rickert (ISPCP): (09:34) We have used the language for months. Why change it now?

Farzaneh Badii (NCSG): (09:34) we agreed to deleting Thomas's language. that was a compromise. we can't agree on re-wording this

Milton Mueller (NCSG): (09:34) IF we don't change it, nothing really changes. If we do change it, we are sending a very concerning signal to those of us concerned about GDPR compliance

Collin Kurre (NCSG): (09:34) I don't feel comfortable removing the word "requests," as it removes the implied standard imposed on those seeking access to data. If it can be assumed that lawful requests will be honored and data will be made accessible (by virtue of them being lawful), why remove this word?

Farzaneh Badii (NCSG): (09:34) it will be the samw Hadia- it is a reasonable response to reasonable disclosure requests. Don't know what the problem is .

Mark Svancarek (BC): (09:34) I can keep the older language. I liked the newer language better, for the reasons I put forward.

Farzaneh Badii (NCSG): (09:35) thanks Mark.

Thomas Rickert (ISPCP): (09:36) Margie - there can't be an obligation to disclose. We have not specified any criteria in the person of the requestor or for vexatious requests.

Alan Woods (RYSG): (09:36) +1 Thomas I'm a bit taken aback by that statement.

Margie Milam (BC): (09:37) If its reasonable and lawful--

Alan Woods (RYSG): (09:37) (from amrgie) Alan Woods (RYSG): (09:37) *margie Julf Helsingius (NCSG): (09:38) Milton +1

Margie Milam (BC): (09:39) why is reasonable + lawful a problem?

Milton Mueller (NCSG): (09:39) now that we've talked it to death can we have a New Orleans style funeral?

Farzaneh Badii (NCSG): (09:39) what is a New Orleans funeral?

Margie Milam (BC): (09:39) we havent actually talked about it until Ashley raised it

Julf Helsingius (NCSG): (09:39) I'll get a trombone! Milton Mueller (NCSG): (09:39) A happy parade

Alan Woods (RYSG): (09:40) as long as i can have a po-boy and begnet! (sp??)

Laureen Kapin (GAC Alternate): (09:40) beignet

Collin Kurre (NCSG): (09:40):)

Alan Woods (RYSG): (09:40) Thank you Laureen! :D Farzaneh Badii (NCSG): (09:40) have a meeting at 11. Terri Agnew: (09:41) **10 minute break (will be silence)

Farzaneh Badii (NCSG): (09:41) so you will probably not benefit from my amazing contributions

Diane Plaut (IPC): (09:43) I will be on the phone bridge for the final hour- in transit

Terri Agnew: (09:51) Thanks for this Diane and noted

Margie Milam (BC): (10:00) Makes sense that it should be greater to accommodate Alan G's request Alan Woods (RYSG): (10:01) I agree with Alan, should be life of the regsitration + retention period

Margie Milam (BC): (10:02) 18 months would address Alan G's concern

Thomas Rickert (ISPCP): (10:02) I had suggested that, Margie.

Matt Serlin (RrSG): (10:02) Yes 18 months would seem to make the most sense Thomas Rickert (ISPCP): (10:03) 12 months plus 6 months to implement deletion

Sarah Wyld (RrSG Alt): (10:03) +1 Alan W

Matt Serlin (RrSG): (10:03) agree with Alan on that point

Margie Milam (BC): (10:03) sorry I missed that - good suggestion Thomas

Alex Deacon - IPC: (10:03) Sounds reasonable to me also.

Alan Woods (RYSG): (10:05) exactly!:)

Emily Taylor (RrSG): (10:05) Sorry - Alan G - to clarify. I meant '.. fine as is, with the alteration to 1.5 years'.

Alan Greenberg (ALAC): (10:07) @Emily - :-)

Thomas Rickert (ISPCP): (10:07) Kurt, we can just say 1 year beyond the registration based on the TDRP plus 6 months to implement the deletion of data.

Alan Greenberg (ALAC): (10:08) @Thomas What does it mean to retain for the additional 6 months "to implement deletion"?

Margie Milam (BC): (10:11) dropping off to drive but will remain on phone....

Thomas Rickert (ISPCP): (10:12) Kurt, it is in my e-mail earlier today.

stephanie perrin: (10:14) My apologies for being late, was detained in another meeting

Thomas Rickert (ISPCP): (10:16) That is not accurate, Alan G. I had suggested 1 year based on TDRP as it was the only hook in ICANN's policies I could find to justify data retention.

Alan Woods (RYSG): (10:16) + all the numbers Thomas

Kavouss Atrasteh (GAC): (10:17) Pls kibndly do not lower my hand without my confirmatzion

Thomas Rickert (ISPCP): (10:18) Also, Alan G, there is no such thing as a general data retention. You need to justify why you need to keep the data for what and for what period.

Alan Greenberg (ALAC): (10:18) We decided on the somewhat arbitrary 1 year in LA long before TDRP was mentioned.

Thomas Rickert (ISPCP): (10:18) Nope, Alan.

Thomas Rickert (ISPCP): (10:19) Maybe you have :-), but the group has discussed this based on TDRP from the beginning in thie EPDP

Sarah Wyld (RrSG Alt): (10:19) +1 to defining purposes for retaining data

Thomas Rickert (ISPCP): (10:22) Has there been any objection to the suggestion I made? If not ,why don't we just use that and move on.

Kavouss Atrasteh (GAC): (10:22) Kurtz

Hadia Elminiawi (ALAC): (10:22) @Thomas

Hadia Elminiawi (ALAC): (10:22) @Thoma

Marc Anderson (RySG): (10:22) @Thomas, My understanding is we are more or less accepting your suggestion and moving on.

stephanie perrin (NCSG): (10:23) I am afraid folks that Thomas is absolutely correct.

Hadia Elminiawi (ALAC): (10:23) sorry the message was sent premature

Thomas Rickert (ISPCP): (10:23) I would just check for objections to make sure we are all aligned.

Kavouss Atrasteh (GAC): (10:24) Your sughgestziosemms sound and Thomas may kindly work on the additional text and come back to us with an agreed additional TEXT or footnote

Hadia Elminiawi (ALAC): (10:24) @Thomas can you please put the wording that you mentiond for the extra 6 months

stephanie perrin (NCSG): (10:25) The calculation is pretty basic. Why am I keeping this data? WHo needs it within the org, and for what purpose? Third party actors are not participants in an orgs data retention determinations. If there are regulatory requirements, clearly those are anticipated in the wording "in compliance with applicable law".

Thomas Rickert (ISPCP): (10:25) Will do.

stephanie perrin (NCSG): (10:25) Frankly, this is so basic in data protection land, it stuns me that we are still discussing it.

Hadia Elminiawi (ALAC): (10:26) thanks

Alan Greenberg (ALAC): (10:26) The ERRP requires some retention past deletion as does the policy requiring reinstatement by the Registry post deletion.

Thomas Rickert (ISPCP): (10:27) Contracted parties are obliged to retain data for 18 months beyond the life of the registration, namely 12 months based on the TDRP and an additional 6 months to implement deletion of the data.

stephanie perrin (NCSG): (10:27) But have either of those policies been reviewed under a GDPR lens? I think not....

Alan Greenberg (ALAC): (10:27) That ewas ERRP .. "past expiration".

Alan Greenberg (ALAC): (10:28) @Stephanie, no they have not but both for registrant protection and I have no doubt they would be reasonable. And we are talking at bout days...

Berry Cobb: (10:29) Alan W. will.

Berry Cobb: (10:31) Link to workbooks on

Wiki. https://community.icann.org/display/EOTSFGRD/e.+Data+Elements+Workbooks

Leon Sanchez (ICANN Board Liaison): (10:31) I need to leave the call. My apologies for not staying till the end

Leon Sanchez (ICANN Board Liaison): (10:31) thanks everyone

Leon Sanchez (ICANN Board Liaison): (10:31) bye now

Kavouss Atrasteh (GAC): (10:32) Secretariat, is there any written doc. tpo show?

Berry Cobb: (10:32) And a thanks to all on the DET. Sarah, Alex, Alan W, Marc A, and Stephanie. It was indeed a team effort.

Kavouss Atrasteh (GAC): (10:34) I hayve to drop in few mits but continude on audio brigdge Berry Cobb: (10:36) And to carry on to Alan W's example of Purpose 6, the group recognized the transfer of the data from Rr to Ry, as it exists that URS requires providers to contact Registries to process a URS complaint. You will see that transfer reflected in Purpose 6.

Sarah Wyld (RrSG Alt): (10:36) +1 re Berry's admirable leadership

Sarah Wyld (RrSG Alt): (10:37) Thanks Alan for that great explanation of our work.

Alan Woods (RYSG): (10:40) +1 Marc Sarah Wyld (RrSG Alt): (10:40) Indeed

Alan Woods (RYSG): (10:40) (plus Sarah and Stephanie .. all invaluable to the work)

Sarah Wyld (RrSG Alt): (10:41) Seconding Alex on that point - please, all, do review the workbooks.

Berry Cobb: (10:42) and Farzi!

Hadia Elminiawi (ALAC): (10:43) Thank you small data team for all the work that you put into this

Emily Taylor (RrSG): (10:44) Thank you to all the members of the data elements workbook small team.

Matt Serlin (RrSG): (10:48) thanks Marika for the overview of timing and next steps!

Alan Woods (RYSG): (11:03) Thanks all

Georgios Tselentis (GAC): (11:03) bye thanks!

rafik dammak (GNSO Council Liaison): (11:03) thanks alll

Emily Taylor (RrSG): (11:03) Thanks Kurt

Julf Helsingius: (11:03) Thanks!

Thomas Rickert (ISPCP): (11:03) Thanks, Kurt! Hadia Elminiawi (ALAC): (11:03) thank you Hadia Elminiawi (ALAC): (11:03) bye Thomas Rickert (ISPCP): (11:03) Bye all.

Laureen Kapin (GAC Alternate): (11:03) Thanks to everyone!