
MARRAKECH – Impacts of EPDP Phase 1 Recommendations on Other ICANN Policies and Procedures
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KEITH DRAZEK: Good afternoon, everyone. Good afternoon. My name is Keith Drazek. If I could ask everybody to come in and take your seats, we'll get started in just a couple of minutes. Thank you.

Chris, I'm among all you friends.

All right, everybody. This is our one-minute warning. One-minute warning. Come on in. Thanks.

Okay. Good afternoon. If I could please confirm that the recording has started and that the live stream is on. Thank you very much. Good afternoon, everyone. My name is Keith Drazek. I am the current Chair of the GNSO Council/Chair of the GNSO. I work for Verisign, and this my 19th year working in the ICANN community. It's great to see many of the familiar faces around the room.

Welcome to the cross-community session here in Marrakech at ICANN 65 that is focused on the impacts of the EPDP Phase 1 recommendations on other ICANN policies and procedures. I think, as we're all familiar, the EPDP Phase 1 that concluded recently with consensus policy recommendations that were produced by the EPDP team itself, delivered to the GNSO Council,

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approved by the Council, and then sent to the Board have the effect of creating new consensus policy. It was a group focused on the development of new policies to replace the old and to effectively replace the temporary specification that had been put in place last May.

The purpose of this session today is to provide a framework of understanding of where the recommendations and the new consensus policy from the EPDP Phase 1 impact other existing policies and procedures, some of which are consensus policies themselves. Others are procedures and yet others are contractual provisions. What we'd like to do today is to provide an update as to where the GNSO and ICANN org view the state of play and then to try to understand whose responsibility it is to deal with where there are impacts, potential inconsistencies, or even incompatibilities between the new policy and the old.

What I would like to do is I will give an overview of the framework and the topics that we've identified, but this really is an opportunity for you, the community, to provide input to this process, to this discussion, to ask questions if you have them. The output of this discussion will be a document that identifies the breakdown, essentially where the new policy impacts the old, where existing procedures and implementation need to be dealt with, and where there are contractual provisions that need to be addressed.

I think, as most know, in the GNSO and policies related to generic top-level domains, which is what we're talking about here today, the GNSO and the GNSO Council are responsible for policy development. So some of the things we'll talk about today will be the responsibility of the GNSO, and it may actually require additional policy development work, new PDPs. Some of the items we'll talk about today are more implementation or procedure, and those will more likely be the focus of ICANN org and the Implementation Review Teams, or an IRT. The third category really are the contractual provisions that would be really the bilateral negotiations updating existing contracts. That would be between ICANN, GDD staff, and the contracted parties themselves.

Coming out of this effort today, this discussion, I'd really like to make sure that we understand that framework. The deliverable is a better understanding of who knows what and what the likely work tracks ahead to the extent we can identify some of these impacts where we might be able to bundle topics under a particular PDP (Policy Development Process) moving forward.

With that, I will give an overview of the topics, and then we will open it up for Q&A or input from you, the community. There will be roving microphones around the room and numbers that I will call upon. So if you have a comment or a question that you'd like to make, just raise your hand and we will build a queue.

Next slide, please. I will do a brief overview of the various topics. These were all posted to the ICANN Meetings website before the session. Then we can talk in a little bit more detail. So I'll do a quick run through of each one and then we can open it up and get into a little bit more detail.

The first is a policy related registry Registration Data Directory Services (RDDS) and consistent labeling and display. That's referred to as CLND. This was originally developed within the thick WHOIS PDP but were implemented separately from the thick's transition. The goal was to align the way registries and registrars label and display registration data outputs. This overlaps with EPDP Recommendation #5, which eliminates the admin contact and makes the tech contact optional. EPDP Recommendation #7 reduces the information required to be transferred to the registry, so there's an impact there. There are also implications for Recommendations 10 and 11, and the EPDP Recommendation 27 specifically called out this as a policy that would need to be updated.

We also have the WHOIS data reminder policy, a transfer policy, uniform domain name dispute resolution policy, restored names accuracy policy, expired domain deletion policy, expired registration recovery policy, additional WHOIS information policy, thick RDDS transition policy for .com, .net, and .jobs – that is the thick transition for .com and .net and .jobs – ICANN

procedure for handling WHOIS conflicts with privacy law, translation and transliteration of contact information, privacy and proxy services accreditation – next slide, please – uniform rapid suspension policy, the WHOIS accuracy reporting system, a cross-field address validation, WHOIS accuracy program specification, and bulk registration data access.

That overview, that summary, gives you a sense of how many existing policies and procedures are impacted by the GDPR, what was the temporary specification, and what is now a consensus policy or soon to be a consensus policy requirements from the Phase 1 EPDP recommendations.

I will note that, again, this is only Phase 1. These are the impacts from the recommendations coming from Phase 1 that replaced the temp spec. We will have further impacts as we continue down the path of EPDP Phase 2 and the development of a uniform access model and/or a standardized system for access and disclosure.

So, while we are embarking upon a review, an assessment, and a plan for dealing with these impacts – as I said, some of which may be minor impacts; others may be major impacts; there may be incompatibilities that have to be addressed so we don't end up with conflicting consensus polices – we need to keep in mind that

this approach right now could further be impacted by the output and outcomes of the EPDP Phase 2 work.

I'm going to pause there and see if anybody would like to get in the queue. Any reaction, any questions, any comments at this stage before we maybe get into a little bit more of the specific detail? Again, just a reminder. What I'm really looking for, what we're really hoping for today, is input from you as to your views on any one of these topics. We can take them in order, or if folks would likely to speak up about a particular concern they have, this is the opportunity to flag them. We, working with ICAN staff, will consolidate the discussion today, the inputs received, and come up with a follow-up document after Marrakech that really tries to provide the framework we're discussing.

So would anybody like to get in the queue?

Okay. Right over here.

STEVE DELBIANCO:

Steve, it's Steve DelBianco with the Business Constituency. When possible, it would helpful if the impact/linkage is explained even in shorthand. For instance, something could be simply suspended with no hope of every coming back to life. Others would be temporarily delayed pending resolution of something clear. A third category would be items that will probably be

overcome by some other change – a move to RDAP that we did as part of the temp spec that very quickly changes a little about access to WHOIS as just an example. So the idea is pretty much dead, waiting for more information, or likely to be handled by another procedure. With that in mind, if you looked at that list again, does that help to put any context on it? Thank you.

KEITH DRAZEK:

Thanks very much, Steve. I think it does, and I think that’s a good way of looking at this in terms of approach and prioritization. I think that certainly, while we may not be able to answer those questions today during this session – I would love it if we could – that’s certainly a desirable outcome or an output as we consolidate the discussion and look ahead. So to the extent anybody has a view on that breakdown, feel free to share it today. We can certainly continue to work on this. This is not going to be a one-shot deal in terms of discussion or a dialogue around these issues. This is going to be an ongoing process.

Again, thank you, Steve, because when you talk about something being replaced by something, we do need to look ahead to the possibility that the EPDP Phase 2 work might make a recommendation or come to a conclusion that could even overturn an interim change. We want to try and minimize the churn around that type of work. Again, for everybody’s benefit,

this is about, in large part, prioritization, which is one of the words that we've been hearing a lot about when it comes to the evolution of the multi-stakeholder review, the planning for the strategic plan and budgeting looking ahead and frankly just bandwidth of both the community and ICANN staff being able to manage this impending development. So thank you very much, Steve.

Anybody else like to get in the queue?

I see Jen.

JENNIFER GORE:

Thanks, Keith. This is Jennifer Gore, [inaudible] IP Group. One clarification on the slide that says "ICANN procedure with touch points on the registry data." As it related to the cross-field address validation and the WHOIS accuracy section of the 2013 RAA, there actually isn't a procedure there because that process doesn't exist.

So I guess the question is, as it relates to prioritization, for those that are not linked to ongoing efforts, if we could get a sense of what the priority is of those three items, that would be very helpful. And the status. Thanks, Keith.

KEITH DRAZEK:

Thanks, Jennifer. I guess that's a good question and I good input for us: to drill down a little bit more as to where these items and where these line items exist in their life cycle, whether it's policy, whether it's implemented policy, or policy pending implementation, which, of course, we understand is of concern to many. The PPSAI issue is one of those that is still pending implementation. Those are, I think, important nuances that we need to capture as we figure out the next steps moving forward.

So I don't have a specific answer for you on that one, but I think we've captured that. We'll make sure that we focus and drill down on that.

Anyone else?

Number 2.

SUSAN KAWAGUCHI:

Hi. Susan Kawaguchi with the BC. You referenced the PPSAI, the proxy implementation. I would urge that we restart that group, the IRT, and move forward with that. The EPDP is not, as far as I can tell, is not going to solve the proxy/privacy issues with requesting the data right now with registrars that do respond according to the temp spec and provide the data if those same registrars, if it is a proxy, will say, "sorry. It's a proxy. We can't do this." So it is a different step in the reveal process and it's a

different service. So one does not include the other, so we need to move forward.

Plus, if you look at the recommendations from that working group, many good recommendations came out that we need right now. We can't tell if data is redacted or if it's a proxy or privacy service. It's very hard to distinguish that from the WHOIS records, the redacted records that we're seeing. So when you don't know what you are dealing with, then there's a lot more churn on the requester part but also for the provider of those services. If we need to be doing a second step or a different step to get that information, then we need to know that and stop wasting people's time.

So I would really urge that we take some of the learnings and the recommendations and implement those now, just marking the registrations in the WHOIS. It's pretty simple to do. Consistency that we ask for in those recommendations, too. And really look at those processes again and move forward.

KEITH DRAZEK:

Thanks very much, Susan. I think, for everybody else's benefit who have not been tracking this closely, there has been an exchange of letters between ICANN org, the GDD team, and the GNSO Council on the topic of the Privacy Proxy Services Accreditation Issue, the PPSAI. While there's a difference of

opinion among Council at the moment, this is in the court of ICANN org and GDD for implementation work.

I think there's a recognition that there are some implications from GDPR and the EPDP recommendations, but there's also the view that moving forward on PPSAI could help inform discussions around a uniform access model and possible ways that that could be implemented. This is one that I think certainly deserves further investigation as to what are the specific impacts and how can those be addressed through the implementation effort. So this is certainly on the radar of both ICANN org and the GNSO Council.

I have Number 4, then Number 6, and then back to Number 2.

KAVOUSS ARASTEH:

Thank you, Keith. I have one comment perhaps on the WHOIS accuracy reporting system. First of all, this is ongoing activities. It existed much before Phase 2 of EPDP and will continue after that. So [inaudible] no problem with the linkage. But the situation is that I don't know whether addressing the issue, whether the WHOIS Review 1 teams – I don't know who is 1 review. [inaudible] talking of Review 1, Review 2, Review 3. Before that, we have to know where we are. We have listed many statistics by different people. Some people say 10% are inaccurate, 12%, 14%. We don't know where we are.

Is there any possibility that gives us the status of the situations, the degree of inaccuracy? We have listened to the SSAC document with respect to the reporting system and the discussion of [inaudible], some of the inaccuracy in the reporting system, the [inaudible] in the reporting system. But before that we have to one [state of] situation of where we are today.

Then you [link in] the EPDP Phase 2. It discussed also Phase 1. You put in Phase 2. Maybe Phase 2 will be able to do to address but I don't think they totally address the situations. They address to the extent that relates to the terms and mandate of EPDP Phase 2, but not totally. This is something, as I mentioned is ongoing, and we need to address that. There is really concerns about that.

Then you referred to the [inaudible] GAC communique. In other GAC communities, also this accuracy has been addressed. Perhaps we have to also add that one. In the last communique in Kobe we reserved that one. Previously it was not only the GAC or ICANN 46 in Beijing that addressed that. There are many GAC communiques where we addressed the issue. Perhaps we say the relevant GAC communique including ... And we mention which one. Thank you.

KEITH DRAZEK:

Thank you very much, Kavouss. Very good point about the multiple communiques and that we can address the language and ensure that is more comprehensive.

I think, with regards to the WHOIs accuracy reporting system, one of the – well, there’s two overlaps with the EPDP Phase 1 recommendations that we’ve identified so far. That would be the EPDP Recommendations #10 and #11. There’s questions about the ongoing viability of the system now that many of the registration data elements are going to be redacted coming out of the EPDP Phase 1 recommendations.

So I think this is, again, another place where there needs to be some more detailed substantive review of the interrelation of these issues. Of course, if we start questioning of wanting some visibility of the current level of accuracy, that’s one factor. Then I think what we’ve seen, at least anecdotally or heard anecdotally, is that, as data is redacted, the underlying data becomes more accurate because it’s not publicly available. So it’ll be certainly an interesting development moving over time, but I understand your point about needing a baseline.

Yes, Kavouss?

KAVOUSS ARASTEH: What degree of accuracy do you have in mind? Objective in one. 0%? 5%? 2%? What degree is that? I don't think that you can achieve anything on 0%. It's totally important. But was is the objective [inaudible] definitely? What are you look for at the end of the day? Thank you.

KEITH DRAZEK: Thank you, Kavouss. Good question. We'll note that. Then I think we had #6 and then #2.

ALAN WOODS: Thank you, Keith. It's Alan Woods from Donuts and from [inaudible], member of the EPDP for Registry Stakeholder Group. I just wanted to go back to the PPSAI and to Susan's point. I feel honor-bound, almost, to confirm – there will be a little bit of change when it comes to it with the recommendations of Phase 1.

However, at this particular moment in time, the organizational field is not redacted as per the policy as it continues on. I can only speak from Donuts' point of view because I review the requests that come through. In the vast – and I mean the vast – majority of cases, it is privacy protected, yes. However, if you are just to look at the WHOIS output as it currently is, you will see that is quite

clearly privacy protected because the organization field calls out a privacy provider.

So I just felt honor-bound to reflect the record that, in most cases, it's not that you can't see it. It's just that that preliminary of the WHOIS has not been done by the requester and they're missing a step. If there is any complication, it is possibly their own fault for not taking that simple extra step of actually checking the WHOIS before they make the request.

KEITH DRAZEK:

Thanks, Alan. Over to #2. If anybody else would like to get in the queue, please raise your hand. Call on a microphone. Thank you.

SUSAN KAWAGUCHI:

Thank you, Fab. That is probably absolutely true for Donuts. When I review registrations for Donuts, actually I don't find that many enigmatic issues. But for the, I don't know how many accredited registrars – there are 2,000? 2,500? More? – there is definitely confusion.

I can give you some examples if that will help with your work on the EPDP. It's not clear if it's a redacted, if it's a privacy or a proxy registration. Unfortunately, there are many registrars out there who are not filling in the org field. So thank you, Donuts, for taking

the right steps. I appreciate that completely, but that's not what's going on with the other registrars.

Do I think it's malicious? No, I don't think it's malicious. I think it's like they think this is fine, this is clear. But it's very hard to understand. If it said privacy or redacted privacy GMBH or something, then I would say, "Oh, yeah. This is probably a proxy privacy registration." But it's not clear. I can show you some examples if that would be helpful.

KEITH DRAZEK:

Thanks, Susan. I think you've hit on a point that's relevant to the work of the EPDP Phase 2: we have previous policies, procedures, and implementations. We've got the current EPDP Phase 1. We've got the work of Phase 2, which is intended to develop a standardized system for access and disclosure. The key word there is "standardized." There's a common set of expectations and predictability around the process and the interface and the interaction. This is probably a good example of how the implementation of PPSAI now would be helpful but that there are things that will need to evolve around it as we move into the next phase. I think, to the extent we can, again, all working together, identify where those threads are and understand where the path forward is and where things – again, I'm looking here at the impacts of Phase 1 but also acknowledging the impacts of what

may yet be to come. So I think this is a really helpful discussion and dialogue, and this is exactly what I think we'd like to get out of this session.

Anybody else who would like to get in, please do. #2?

FABRICIO VAYRA:

Hello. It's Fabricio from the IPC. I had a question. What I've seen, the commonality of all the questions up until now, is that there's just uncertainty. I think your slides – there are a lot of things that are in [flux] [inaudible] resolved, etc. I just wonder who [inaudible] doing compliance, what is resolved, and how are we ensuring that our Compliance team knows what is resolved and what can be a Compliance effort on because it's one thing if we have a splintering or scattershot approach across the community for things that are unresolved. That's understandable. But for all then things that haven't changed or have been resolved, how are we ensuring that we're running on Compliance and pushing for uniformity on those things?

KEITH DRAZEK:

Thanks, Fab. I assume when you talk about compliance, you're talking about ICANN org compliance, right? Yeah. So just to clarify that. I think that's a great comment. A good thing for us to capture is, as we take what we're talking about today and evolve the

tracking and the – not just tracking, but the plan for execution is that we have some indication of where things are in that process so that the Compliance team and everybody is on the same page. So I think that’s a great comment. Thank you, Fab. Again, I don’t think we have the answers to all of that right now, but as you said, there’s a lot of uncertainty at the moment. That’s the reason we’re beginning this process.

If could ask if we could go back to the previous slide – thank you. This was the first slide. We couldn’t fit everything on one page and still keep it visible. I have #4. Is anybody else in queue. #4, Kavouss?

KAVOUSS ARASTEH:

Thank you, Keith. Just one question of terminology. We have heard of standardized access in the charter. We have heard unified access. We have heard harmonized access. Could we not come up with something that people are not asking, “What is the difference about? Is there any difference? They are the same thing?” and so on and so forth about. This is one point for your consideration.

But the purpose of why I’m asking for the floor is not for this one. It’s that you refer the WHOIS accuracy to the EPDP Phase 2. Do they tackle the non-public data accuracy or tackle public and non-public data accuracy? And where does it stand in the terms

of reference of EPDP 2? For non-public data, maybe [inaudible], but for the public data, is it also mentioned? And where is it mentioned in the terms of reference or in the tasks that they are now dealing with? I have looked at the document. Perhaps I missed that. I have not seen that. Thank you.

KEITH DRAZEK:

Thank you very much, Kavouss. Your point about terminology is a very good one and something that is very timely also, both with regard to this effort but the EPDP work itself and how we as a community talk about this issue and the work that's ongoing.

To answer your question, the first question, in the charter of the EPDP team, both Phase 1 and Phase 2, the language that we used as the goal or the output was a standardized system for access to non-public registration data – in other words, recognizing the GDPR was impacting the legality of the publication of personally identifiable information in the WHOIS database. The question was, how do we move forward?

The desire [was that] the charter of the group was to develop a system for standardized access to non-public registration data. Over time we have been intermingling the use of the uniform access model, the standardized system for access, and the standardized system for access and disclosure. I think it is

important for us to better understand how these terms are evolving.

I don't want to speak for the EPDP team, but my understanding is that, when we talk about a uniform access model, we're talking about something that is essentially a construct that has ICANN playing a centralized role as a controller or as the controller for registration data services.

Goran? And that would be – Goran is going to jump in here – distinct from a standardized system of access and disclosure that would be more distributed. Goran, feel free to jump in.

GORAN MARBY:

Of course, Keith, you are completely right in your description. I just want to add something to it. The idea behind the unified access model is to take away the legal responsibilities for the contracted parties when it comes to the actual who asked the questions/who validates the questions. The question was, who becomes controller [and the processor's type]. That is something we're trying to figure out through the what we call the Strawberry Group. Yes, for your information it's called the Strawberry Group as an alternative to the UAMBOTG acronym, which I couldn't say. That is the official name: UAMBOTSG, which actually says, "UAM Based On the TSG." So you're right. There's this distinction from

any other one, but that's the definition of a UAM. Thank you very much.

KEITH DRAZEK:

Thank you, Goran, for the clarification and for the explanation about the terminology of Strawberry. Back to the distinction in terminology, again, these are still open questions in terms of how this plays out and who has what role. I think the unified access model is one possibly implementation based on the TSG that would have a more centralized functionality – setting aside roles and responsibilities in a moment – more centralized responsibilities. Or you have something different, which we're referring to now as a standardized system for access and disclosure, that could be more distributed.

I think these are the questions that we're working on right now. Phase 2 is focusing on that, absolutely. I think your point about the terminology being important is one that we will need to perhaps come up with a set of definitions for this effort, for this exercise, so people are in agreement that the terminology being used is consistent. So thank you, Kavouss, for that.

Follow up?

KAVOUSS ARASTEH: [inaudible] Goran looking for its own use of view of the ICANN centralized controller. We have not yet come up with that. It still is under discussion: whether ICANN becomes a centralized controller or not. This is something else. We don't [inaudible]. But until the time we achieve a consensus on whether you call them definitions or whether you call them descriptions, we need to have some sort of footnote indicating what is the situation to make the mind of the people clear.

The second question I raised about the non-public data accuracy and public and non-public – that was my second question. I hope that you could also answer that one. Thank you.

KEITH DRAZEK: Thank you, Kavouss. It's a good question. We may have to take that as a takeaway from this discussion, but again, going back to the terminology and the importance of terminology. WHOIS is essentially the old protocol. WHOIS is a protocol is going to be replaced by a new protocol called RDAP. We will be moving from, according the recommendations coming from Phase 1, a previous protocol with a certain set of expectations. The descriptors of think and thick are essentially going away to be replaced by an RDAP-based solution that requires a minimum data set for various components and various requirements.

So this is, again, just a reminder to everybody that the terminology that we're all using associated with GDPR, WHOIS, RDAP, what used to exist and what we will exist in the future is all evolving. So I think we need to understand – Kavouss, this is a great point – that the common understanding the terminology is important as it evolves so there's not a misunderstanding or miscommunication about the intent. So thank you for that comment. We will take that on board. We'll make sure we've captured that as an action item.

Okay, #3, please.

MARGIE MILAM:

Hi. A couple points. Just to clarify that the EPDP in Phase 2 is not just focusing on the access model. There's a lot of issues that got carried over from Phase 1 into Phase 2. Some of them are on this list. So I think that's something you have to factor into the work, that the things related to accuracy are things we're covering in Phase 2. I believe thick WHOIS we're looking into in Phase 2. You can look through – staff can do this – the report or look at our work plan to see how it's going to be addressed. So that's something to input.

With regard to the definitions, I think we have to be careful because there's a difference between WHOIS policy and WHOIS protocol. So definitely, when we're coming out of this, it will be

an RDAP protocol being used, but the policy will be something else. It'll be much broader than RDAP.

So I think, Keith, we have to come up with definitions for what the new collective policy is, and RDAP is just one small component of what we're going to produce at the end of that process. Thank you.

KEITH DRAZEK:

Thanks, Margie. All excellent points. And you're absolutely right. Again, when we talk about terminology and the importance of understanding, there is a protocol, and that is the technical interface that's the rules. But there's the policy that are the rules that sit on top of the protocol, and those are very distinct.

To Kavouss' points, the terminology is important. We have to make sure we'll all talking about the same thing.

Margie, to your point also about the ongoing work of Phase 2's carryover work, Recommendation 27 of Phase 1 called for a review of the things that are on this list today. Some of that work, as Margie accurately said, is ongoing in Phase 2. Again, another complexity that we have to deal with here as we figure out the path forward.

Anyone else in the queue? Anyone else?

#3?

RUSS PANGBORN:

Hi. This is Russ Pangborn from the IPC. I just wanted to also raise a PPSAI issues. We focused only on the one issue of a record indicating a privacy or proxy service, but the recommendations were a lot more than that. I just want to re-raise that it's been since 2016 since the Board approved this, and it's has eventually just stalled. Since most of the recommendations are not implicated by GDPR, there's really no reason that this shouldn't move forward on those recommendations that are not indicated.

KEITH DRAZEK:

Thanks, Russ. On the PPSAI, in an initial review, it appears that there's some interplay between the PPSAI recommendations and EPDP Phase 1 Recommendation #14. There's some potential overlap between PPSAI recommendations where privacy and proxy providers validate customer data, changes data to data recommended in EPDP Recommendation #5, and recommendations around a disclosure framework that have potential overlaps with EPDP Phase 2. So I'm taking your point, but even if it's oblique references or overlaps, these are the kinds of things that we need to identify now so we're not surprised by them later. The sooner we can get to these, the sooner we may

get to a point where implementation is possible. So, again, that's part of the purpose of this discussion. So thanks for that.

Anyone else? We're heavy on this side of the room over here, so let's ... all right. #5, please.

MICHELE NEYLON:

Thanks, Keith. Michele speaking only for myself. The policies that were discussed and developed in various PDPs prior to the broader ICANN community realizing GDPR was a thing were paused for a very good reason. While it might be possible to carve out specific recommendations from the PPSAI or from other policies that have not been fully implemented at this juncture, to simply state that there's no good reason that they should remain paused and that they should move forward is to ignore basic fact.

The policies such as PPSAI that were developed were developed without taking into consideration in GDPR other relevant privacy laws. If you look at the recommendations coming out of the EPDP Phase 1, it is pretty clear that a lot of things such as disclosure are covered in or should be covered as part of EPDP Phase 2. So I just don't see how you can simply ignore that.

Also as well, there are other policies here that probably could do with review from a purely operational perspective as opposed to a pure policy perspective. For example, with the transfer policy,

as the data that is available to the gaming registrar is different than what it was previously, operationally speaking it is impossible to have access to data that is not there. So that's an operational issue.

Now, within the operational community, we have been trying to look at ways of streamlining that entire process. Ultimately, I think the end goal with a lot of this is both to respect the laws, respect the rights, but also to possibly make those policies operationally smoother and make them more functional.

KEITH DRAZEK:

Thanks, Michele. Thanks for mentioning the transfer policy. I think that's a good example of a policy that has existed for many years in different forms and has gone through multiple different iterations of its work: the IRT Part A-Z efforts – maybe not quite that many but it certainly seems like it sometimes – whereas under the new regulatory regimes and the laws that are being developed – again, today, we're reacting to GDPR, but it is, as we all know, not the only privacy law internationally that is potentially impacting what we do today and what we will be doing in the future. So as we look at these, yes, we're trying to make our implementation and our policies consistent with GDPR and with the recommendations from EPDP Phase 1 and eventually EPDP Phase 2.

But I think, as you look at something like the transfer policy, as Michele said, the data that's available, how that data is used, how it's accessed, if it's transferred, how it's transferred is something we need to consider. That may be a policy by way of example that requires a complete review and perhaps starting from scratch. There may be those who think that that's too much but others feel that this is something that could be basically started from a green field approach.

Michele, would you like to get back in?

MICHELE NEYLON:

Am I back? Oh, I'm back. Thank you. Yeah, I think actually you do raise a very valid point. The transfer policy was introduced originally back, I think, in 2001 or thereabouts, and it existed in a form for multiple years.

Now, the Internet and the relationship that we all had with the Internet with domains back in 2001 is very, very different to what we have now. It's a totally different landscape. The transfer policy is meant to allow for the registrant of a domain name or multiple domain name to be able to freely move their domain from one provider to another. There are many reason why you might wish to do so, though obviously I would prefer that you all move them to my registrar because obviously that's how I make money.

The policy was originally drafted for a particular set of circumstances have changed. When the reviews were done – this was decided long before I started turning up in ICANN meetings – it was decided to break it up into four separate policy development processes. But even with those four policy development processes, you end up in a situation where you were addressing or try to address a certain set of circumstances. By the time you actually finished that and implemented it, what you were doing had already moved on and changed.

Now we probably should look at it from a clean-slate approach -- look at leveraging the technologies that exist today, look at the requirements of our customers, and look at how to do that in a fashion that is secure, scalable, and all of those good things,. But looking at it solely through the lens of the EPDP I don't think any of us a service. I think we should be looking at it in terms of how best to serve our clients.

KEITH DRAZEK:

Thanks, Michele. Of course, if we were to review the transfer policy and start over, if you will, in a green field approach, we look at this list – how many of these other existing policies and procedures would be impacted by that? And where is the interrelation and how do we make sure that, if we're going to

open up and review one policy, it's not having a domino effect on others without fully understanding what that might be?

Let me see if anybody else is in queue. We actually are halfway through our session here this afternoon. Again, if there are any questions, any comments, any input, any clarifying questions, I'm happy to take them. I'd also like to welcome anybody from ICANN org or GDD staff to speak or to weigh in with any views or questions themselves. Again, just to remind everybody, the GNSO Council and the GNSO is responsible for policy development. ICANN org is responsible for implementation of that policy. Then of course if there are contractual provisions impacted by Phase 1 recommendations or what's coming in Phase 2, then that would be a GDD-contracted party situation, where the resolution would be found there.

Kavouss, once again.

KAVOUSS ARASTEH: [inaudible] comment.

KEITH DRAZEK: Please.

KAVOUSS ARASTEH: In discussing the policies, first of all, we expect from EPDP Phase 2 that we have the necessarily indication of what those policies are that need to be further pursued, not only limited to the EPDP because they can't do it. They have limited time available.

But one thing is important for policies. This is my experience from the accountability actions. We [inaudible] into the policy at the same time we need we need to look into the implementation of that policy. If you have the policy not properly implementable or not implementable, that would not have a good result. So we have to look at that one, not to talk always theoretically of having the issue of having the policy. It should be on the implementation of that policy. These are the important things that we have to look at. Thank you.

KEITH DRAZEK: Thank you very much, Kavouss. I completely agree. I should clarify that, while the responsibility for policy implementation rests with ICANN org, an implementation review team (the IRT) is ICANN org with members of the community contributing together towards the effort of implementation. So it's not as if it is simply a complete and direct handoff from the community to ICANN org. It is actually ICANN org's responsibility for leading the effort. But there is a community component to implementation review teams. I apologize if I didn't make that clear earlier.

I have #5.

MICHELE NEYLON:

Thanks again. This is a very odd week. I find myself agreeing with Kavouss twice. This does not normally happen. I think, speaking more seriously, most of the policy development processes that impact the operations of registrars and registries have a pretty good representation of people from our respective groups.

In the case of the EPDP, we have members. We have alternates. We also have regular interactions between members of our stakeholder groups and those poor souls that have put themselves forward as volunteers on the EPDP. If you haven't thanked your EPDP members today, please do. Hug them. Buy them drinks. In some cases, I think they're looking for steak knives.

So the idea that policies coming through the EPDP would end up being impossible to implement, while that might be a valid question to ask, I would hope is unlikely to happen because those of us who actually have to operationalize the policies are involved in that policy development process.

Now, that is not to say that we do not end up in times in some of these processes where's a gap between the policy outcomes and the implementation. That can happen, but I think in this case

everybody is watching every single move that the EPDP team is making. So the likelihood of them being even allowed to breathe without somebody taking notes of the breaths that they've taken is probably slim to none.

KEITH DRAZEK:

Thanks, Michele. I'll respond to your point about the need to make sure that the policy as developed is implemented accordingly. This is something that the GNSO and the GNSO Council as the group responsible for policy development, both previous, current, and future policy development, is going to be working very, very closely with ICANN org and the GDD team over the coming months and probably years as we work through this. This is an extremely complex situation with a lot of moving parts, and there is overlap between the policies and the implementation, especially when you have a list of 14 items or potentially more that are interrelated or have impacts upon one another.

So I guess the message here is this is a joint effort moving forward with the GNSO as it relates to the gTLD policy development and the implementation that's conducted by ICANN org in consultation with the community through implementation review team. This is, today, really just the beginning of that effort. That's why we're presenting it this way.

The next time we do this, and following Marrakech, there will be a much more detailed document that outlines a lot of the things that are being discussed here today. I certainly appreciate all the input so that we can capture that and make sure that the next iteration of this is much more informative.

Having said that, back to the queue. Anyone?

Please?

All right. So it's not completely wide open, let's run through this list and see if anybody has any questions, comments, or thoughts on each one of these items.

The first one I mentioned at the outset is what we call RDS CLND. This is the Consistent Labeling and Display. It's associated with the transition from thin to thick, and it essentially establishes, as you would imagine, consistent practices for registries and registrars as it relates to the display of data.

Would anybody like to speak to this? Any questions, any comments, anything that we should capture?

Okay. Next item is the WHOIS data reminder policy. This is a policy that requires registrars to formally remind registrants once a year to review and update their contact information. For any of you who have registered a domain name, you will get e-mails from your registrar that remind you once a year to go and make sure

that your information is accurate. There's an overlap here with the EPDP Recommendation #5 as it relates to the admin and tech contacts, which will, under the EPDP Phase 1 recommendations, be eliminated or made optional for registrars to collect.

Again, I think there's still an expectation of the reminder policy that's in place. But the question is, there are components of that that will need to change. So there's a bit of a follow-on effect there.

Michele?

MICHELE NEYLON:

Far be it from me to leave you to speaking all by yourself, Keith. I'm worrying about you developing laryngitis. On the WHOIS data reminder policy, all it really is is a repetition and a reminder of which fields are present. So if you update the fields or remove the fields, you're just getting a reminder of that. So to be perfectly honest, I see this as a complete non-issue. I don't know if any other registrars in the room think it is an issue. I just don't see it as being particularly problematic.

KEITH DRAZEK:

Michele, just to follow up on – and you would know the reminder policy better than I – are the data fields explicit in the current WHOIS data reminder policy, or is it simply a reference to the

WHOIS record, or does it link to something? I guess that's the questions, really—

MICHELE NEYLON: Well, the way that we've implemented it – hopefully nobody from Compliance now comes down and beats me over the head – is we send them a copy of the WHOIS record. I'm not sure if that includes the fields or not—

UNIDENTIFIED SPEAKER: [inaudible]

MICHELE NEYLON: Excuse me?

UNIDENTIFIED SPEAKER: [inaudible]

MICHELE NEYLON: Or I can link to it. So I think, if you're sending out a WHOIS reminder to somebody who has one domain name and they're already getting one reminder, then sending the data makes sense. But if you were doing it for somebody who had, I don't know, 5,000 domain names that were all renewing on pretty much the same day, sending them 5,000 e-mails might be a little bit excessive. So sending them links to the data might make more sense.

The other one you have there is – oh, God, what is it? – uniform domain name dispute resolution policy.

KEITH DRAZEK: UDRP.

MICHELE NEYLON: UDRP – oh, yeah. So it’s UDRP [inaudible]. A lot of these ones are more management of the names. I won’t get into UDRP, but restored names, expired names, expired registration, recovery. Those are all just to do with management of the domains through the lifecycle. So if there are data fields that are no longer being used, then they’re not an issue.

KEITH DRAZEK: I think that’s exactly the point, Michele, on this one. The UDRP rules require the provider to send notifications of complaint to admin and tech contacts. Those will be eliminated or made optional for registrars to collect in accordance with Recommendation #5. Again, this may be fairly minor, but it is something that, if it’s explicit in the UDRP requirements, that’s where the UDRP policy or implementation would need to be updated. While it may not require a wholesale change of a policy, there could be these interactions or interrelations that we need to identify so there’s not inconsistencies or incompatibilities.

Again, I want to clarify. Not everything that we're talking about is going to be an incompatibility where one policy conflicts with another. It could be simply an inconsistency in interpretation or implementation that needs to be dealt with. Again, it's going to be a very complex review of all of these things to make sure we understand all those puts and takes. Thank you, Michele.

We got #4, and then #3, and then #6.

PAM LITTLE:

I just want to confirm or agree with Michele's comment about WHOIS data reminder policy. I really see no impact, if any. Basically, you would just remind the registrant the then-current registration data, depending on the prevailing policy requirements. So I don't see why that should be impacted. Thanks.

KEITH DRAZEK:

Thank you, Pam. You know what? That's a great answer because, if we can start taking things off this list, we'll all be in better shape. As we go through this process, we narrow these things down and really focus in on to the word I used earlier: prioritize what's most important early in this process and where there may be the knock-on effects or domino effects of changes in one place to another. So, Pam, thank you very much.

Then I think we had 3 and 6.

MARGIE MILAM:

Keith, I think the EPDP contemplated some of these things because Recommendation #27 says that as part of the implementation of the Phase 1 report that there would be adjustments to some of the things that are on your list here. I don't know if you or staff have taken a look at that, but it says that these things should be done as part of the implementation of the Phase 1 report. I don't think this list covers everything on your slide, but it certainly picks up a lot of the ones that you've referenced today.

KEITH DRAZEK:

Thanks very much, Margie. You're exactly right. Much of what we have here on this list was directly taken from Recommendation #27. I think we may have identified a subset here that were mostly directly related to policies and procedures. It's absolutely worth another review. Certainly, the genesis of this discussion was Recommendation 27 from Phase 1. It's hopefully kickstarting us to focus on that but also acknowledging that there could be future, further impacts from the Phase 2 work.

#6?

SUSAN PAYNE:

Thank, Keith. Looking at the UDRP listing there – actually, this comment might also be applicable to the Uniform Rapid Suspension, or URS, which isn't a consensus policy, as you know well, but does nevertheless impact a lot of registries collectively because it's applied to all new gTLD contracts and some of the legacy ones.

But it seems to me you have listed a status that that's in effect and that there's a review plan. I'm assuming that that review planned is a reference to the review of the UDRP that will be Phase 2 of the RPMs review. But Phase 2 of the RPMs review obviously isn't due to begin until possibly late next year. Obviously, we don't know how long that review will take, but Phase 1 is past the three-year mark.

It seems to me that some of the changes that need to be made to the UDRP are very procedural, the ones that you referred to just now about which contacts are used and where things have to be sent. It seems to me that perhaps it's worth reviewing the UDRP and the URS and identifying where there are purely procedural matters like that that could perhaps have a quick fix rather than waiting for maybe two years for the UDRP review to complete. I believe there are aspects of the UDRP that actually are more fundamental that are now impacted by the inability to know who a registrant is. That's entirely appropriate to have a more deeper dive review on that. But some of this stuff is admin.

KEITH DRAZEK:

Thank, Susan. Completely agree. That's exactly, I think, the benefit of beginning this exercise and carrying this out. If there is – to use an overused term – low-hanging fruit or something that is administrative or an easy fix, not the more fundamental policy questions, then we should take the opportunity to tackle that and maybe do it in a more streamlined or expedited way. So I very much welcome that comment.

Related to the RDS PDP Working Group, that is my understanding: the review planned is – that's what that refers to. My understanding today is that the target for Phase 1 concluding is April 2020. I know that the GNSO – I know there's perhaps some question about that, but the current target is April 2020, and the GNSO Council, just for everybody's benefit, is working and beginning to work on reviewing the charter for Phase 2 and making sur that the Phase 2 work can begin as quickly as possible once Phase 1 wraps up.

To your point, if that's something that the Council should be aware of, if this issue and the more technical or more procedural adjustments is something that Council should be aware of, then we'll certainly take that on as an output from this process. So thank you, Susan.

#6 in the back?

ALAN WOODS:

Alan Woods from Donuts again. Just in relation to that one as well, we, during the EPDP Phase 1, received input on the public comment from the European MFSD URS provider, who actually gave us some excellent pointers. You'll see actually in one of the recommendations that we went into very specific detail with regards to procedural elements of the URS that were specifically impacted by the GDPR. So it's an absolutely perfect point that there are procedural elements that were brought to our attention very nicely by the URS provider. I think there could be scope in the same way for the UDRP. I'm not as aware, but I think that's why we have the specificity in the actual Phase 1 recommendations with regards to URS. It's a good point. I just wanted to give everybody – that was a plus.

KEITH DRAZEK:

Thanks very much, Alan. I think that's an important distinction, where we may have a policy, and the language of a policy might be impacted, but it could be a relatively minor procedural update rather than a major policy concern. Then there's the implementation of that that may be another way of addressing it. We need to truly understand where that line is. Is it a policy question for the GNSO to tackle, even if it's something simple, or

is it an implementation question for ICANN org and the IRT to tackle. So it's a really good point. Thanks to both of you for that.

I think I had a remote participant, if I'm not mistaken. #4?

UNIDENTIFIED FEMALE: We have a remote question from Joyce Lin from 007 Names, Inc. "The WHOIS data reminder policy is basically for the legacy public WHOIS purpose. Does the reminder still mean anything under the GDPR implementation?"

KEITH DRAZEK: Thanks, Joyce, for that question. I saw a reaction from Michele, so I'm going to turn to Michele for that response as a registrar who engages in reminder policy.

MICHELE NEYLON: Thanks, Keith. Hi, Joyce. That's not what the WHOIS data reminder policy is about at all. The WHOIS data reminder policy is for you as the registrar to remind your client, the registrant, of whose details and what details are associated with a domain or domains that are in your portfolio. It's like saying this is a reminder about you, I don't know – I'm trying to think of an analogy. It's like a license reminder. You have these licenses, and these are the details on the license. Maybe you've updated your

address. Maybe you've changed your telephone number. Maybe you've changed the corporate entity.

A kind of situation that we run into both in the gTLD space and the ccTLD space is companies transfer ownership or they change from one form of incorporation to another. Often people forget to update the details associated with domains, which can of course lead to all sorts of other complications.

But GDPR has nothing to do with this whatsoever. The only changes are the data fields, as some of them will simply go away.

KEITH DRAZEK:

Thank you, Michele, and thanks for the question, Joyce. Anybody else in the queue at this point? We can move through this list. Again, there's some on here that will probably be more interesting than others to folks. Any current questions? Anybody in queue?

I don't see anyone. So we've talked about the reminder policy, the transfer policy, the UDRP. The next few on the list would be the restored names accuracy policy, expired domain deletion policy, the recovery policy, additional WHOIS information policy. Anybody want to speak to any of those? Anyone with expertise in dealing with those today?

Maybe not. We'll keep moving on. This is just a representation also of what has already been identified, where there are interrelations and where there are impacts. Again, we're going to be going through the process of assessing what those impacts are and how urgent they are and what the implications are.

Next would be the thick RDDS transition policy for .com, .net, and .jobs. This is, I think as most know, the current situation where there's an existing consensus policy that requires all existing registries to be thick, which means to actually have the registrant data. That policy is in place. The three remaining TLDs that are not yet thick are .com, .net, and .jobs. There has been an extension on enforcement or a deferral of enforcement on that policy subject to the work of the EPDP and a better understanding of the implications of GDPR.

Essentially, what this current policy would require is for existing registrars to transfer their existing registrant customer data to the registry operator in many cases across jurisdictional lines. That is the subject of one of the policies that will be reviewed.

If I'm not mistaken, Recommendation #7 in the EPDP Phase 1 report touches on this issue. There is a requirement that the GNSO Council review this existing policy in the context of EPDP Phase 1 report.

I should note that the Board in its communication in approving the recommendations from Phase 1, including Recommendation #7, called out the need for the community through the GNSO to conduct a review of this and to perhaps initiate a new PDP or some process to resolve this issue in an open or transparent manner. That's something that the GNSO will certainly be delivering upon.

Any comments or questions on this one?

Okay – oh, Alan? Thank you, #6.

ALAN WOODS:

Thank you. That one is an interesting one. We have many conversations, obviously, during Phase 1 on the concept. I'm just going to throw this out so people can consider this. One of the points within the Phase 1 of the EPDP was to actually take a step away from the concept of thick and thin and to define what is the minimum data set that is necessarily for the registration of a domain and can be called upon within the contracts. As I said, I'm just throwing that out there.

I'm not going to link it or anything to that, but the minimum data set is the new term that should be thought about. A lot of thought went into that in the EPDP Phase 1. So that is definitely an impact, I think, going forward on that particular one.

KEITH DRAZEK:

Thanks very much, Alan. Anyone else on this one?

Okay. Seeing no other hands, the next item on the list would be the ICANN procedure for handling WHOIS conflicts with privacy law. I'll note that the GNSO Council on this one has on hold today the review of this particular policy. This was essentially – I'm sure I'll be corrected if I get any of this wrong, but there was policy put into place that allowed registrars to request an exception for issues where WHOIS requirements were in conflict with their local law/international law. Michele would correct me, but essentially it was found that it was essentially, in the view of many, an unstable process because it required registrars to go to their local authorities and essentially admit or acknowledge that they were in violation of the regulations in order to get an exception.

Michele, correct me on any of that. Feel free to jump in.

MICHELE NEYLON:

Thanks, Keith. I could correct you, but I'll [let] it slide. I think we should really look at it in terms of the current reality versus the history. As you rightly pointed out, there is an official policy that came into effect many, many moons ago which was found to be, from the perspective of many of the registrars, not fit for purpose

because the triggers to be able to access the policy were such that you really could never do it.

There was a review. The review came out with some tweaks to that, which some of us felt were not exactly helpful. I'm trying to be diplomatic. We were meant to be reviewing it again at Council, but we put it on pause in light of what was going on with GDPR and now the temp spec and now the EPDP.

At this juncture, it's probably one of those policies that might need to just be sunset. I'm not really sure what problem it now addresses because we're going to deal with it via the EPDP. We already have the waiver system in place around data retention. For those who aren't familiar, there is a data retention – well, there's a couple of clauses within the 2013 Registrar Accreditation Agreement which obliges registrars to hold on for registration information after the domain name is no longer associated with the registrar. There is a waiver process for that. That's being dealt with.

So I think in some respects this policy might need to just simply go away, be put to the annals of history. I don't know why we still have it.

KEITH DRAZEK:

Thanks, Michele. That's great feedback, certainly, from the perspective of a registrar who would be one of the entities utilizing or not utilizing this particular policy and process. But I should not also – I don't have the answer here – that the EPDP has been dealing with the impacts of GDPR. There could be other jurisdictions until such time we update our policies and ensure that whatever we build, as far as a uniform access model or a standardized system for access and disclosure, can accommodate those other jurisdictional requirements that this actually could be a necessary process. To ensure that that process works and is usable is something that we probably need to consider both from a policy and an implementation perspective.

So I agree with Michele that it may not be necessary now under EPDP Phase 1 as it relates to GDPR compliance. It could actually, while things evolve and as new regulation and laws come online impacting the gTLD space, be something that would be necessarily and useful. I'm not saying that's definitive or saying that in a definitive manner, but it's something that we, again, through this process need to consider.

Okay, #5. Stephanie?

STEPHANIE PERRIN: Stephanie Perrin, Non-Commercial Stakeholder Group. Thank you very much. Keith has said much of what I wanted to say. This is my least favorite, shall we say, policy instrument in the arsenal. We do need to keep a placeholder open because, very shortly, there will be an awful lot of legislation that has made considerable tweaks in response to recent transport of data flow issues and the GDPR. We can't predict what we're going to be dealing with, and we will have to factor that in somehow to the model that we are working on.

So if we could just put a complete red X on it – “Broken; Don't Repeat” – but a marker that we're going to have to look at local law and figure out how it works, particularly with respect to the controllership issue in releasing data.

KEITH DRAZEK: Thank you very much, Stephanie. That's excellent input. Thank you. Any other comments or questions? We have just under 15 minutes left, so if anybody would like to get it in, we can keep going through the list here. We don't have to talk specifically about each one of these line items, but observations, inputs, thoughts, recommendations, or advice?

Okay. Let's go to Kavouss, #4, and then we'll come to Michele, #5.

KAVOUSS ARASTEH:

Thank you, Keith. I would like to address one important issue. You are dealing with a various number of policies. These policies [inaudible] as policy recommendations. There is a need to emphasize that there seems to be some degree of stability in these policies. They should not be changed quickly because it's a lengthy process.

So, when there is a need to modify that, you may think of procedures or a process of how to modify a policy to look at whether they need a total review or whether they need, I would say, a minor modification – you have to define what a minor modification – and have some sort of procedures on how to do that, not to go through that lengthy process of the total review of the policy, based on which something has been built. That should have this sort of degree of stability. It's a general question about all policies, and we have to think of that one. We have that one outside ICANN sometimes, and that's [inaudible] region of something, a modification/revision. We need to maintain the stability of that recommendation for some time. If there is any need to change that, we go to the change, and sometimes change is maybe totally [inaudible], maybe minor. We have to have a policy here not for the total review of the policy. That is a general commented I wanted to make with respect to all policies. Thank you.

KEITH DRAZEK:

Thank you, Kavouss. I think that's a really good point, and it touches on a couple of different things that we've talked about here today and also some work that's been going on in the GNSO as it relates to our approach to managing policy processes. I think, as Susan mentioned earlier, there could be some very minor changes – tweaks, if you will – to a policy that need to be dealt with but that are administrative or procedural in nature and not fundamental to the policy itself.

I think, as the GNSO Council, the body responsible for chartering and managing these policy processes, we do have the flexibility to establish a change to policy through a policy development process that can be very narrowly focused. I think that, chartered appropriately, it could perhaps be done in a much faster fashion.

Perhaps we could charter a policy development process to deal with multiple issues, multiple update to separate policies, through this effort. I think there's flexibility that we have. It's just a question of ensuring that we have the issues report and the scoping and the chartering done appropriately. So I think that's absolutely right.

Again, back to the point of prioritization, the question here is, where are there going to be incompatibilities between the new policy and previous policies? Some of the questions – actually, I'd like to go to, if we could, the last slide with five or six questions on

it. Next. Yes. So this was the review dimensions. I probably should have come to this slide sooner. I apologize. These are some of the questions that we as the GNSO Council and ICANN org through the implementation efforts and all of us as a community need to be considering. Are the policies and procedures inconsistent or incompatible with EPDP Phase 1 consensus policy requirements? Do any of these have any security or stability concerns? As we remind ourselves, ICANN's mandate is for the stability, security, and resiliency of the DNS. Do any of these particular inconsistencies or impacts have SSR concerns or generate SSR concerns? Do any of these impacts or changes require operational or technical changes? In other words, what is the implementation knock-on effect of any changes that we're dealing with here, and how long will that take? What's the cost of that? Do any of these have negative implications on users and registrants? Finally – this gets back to the prioritization question – is urgent mitigation required? Is there something that's so incompatible or, because of stability and security, are negative impacts on registrants that we need to prioritize and make our focus #1 or 2 or 3?

Let's go #6, #5, #4.

ALAN GREENBERG:

Thank you. I was commenting on what you were saying before. The GNSO traditionally has had an aversion to initiating PDPs because they suck the life out of everyone, but you probably cannot shorten the duration of a PDP. There's enough steps in it that it will take 9 or 12 months. But if you initiate a PDP on some of these small issues, all of the changes for all of the policies at once that everyone agrees to ahead of time, or pretty much agree to, can be very, very lightweight in terms of the actual effort that people are going to have to put into them. It still will take nine months until it finishes, but it doesn't have to be two meetings a week to handle them.

So I really think the GNSO needs to try some very lightweight PDPs just to get the experience, and, in the future, when another issue comes out, not be afraid to charter a PDP because technically that's the only mechanism you can use to fix it. But it shouldn't be a painful mechanism if there's general agreement ahead of time. Thank you.

KEITH DRAZEK:

Thanks very much, Alan. I completely agree. Just for everybody's benefit, you may have heard the time before/recently, but the GNSO over the last 18 months, going back to the previous Council and carried on through this Council, has been working on what we've referred to as our PDP 3.0 reforms/recommendations. Now

we're in an implementation phase. The goal of this effort was to make the GNSO Council's management of these policy processes more efficient and more effective. So we have a number of different recommendations that are going through an implementation phase now where we can actually use some of this to test and to do essentially what Alan has suggested and making sure that we can conduct these PDPs in a timely fashion, effective and efficient, without basically preventing something from being the heavyweight approach that we've had in the past. Some of that is necessarily, but in this particular case, I think we've identified some examples of where things could be fairly quick, fairly lightweight, going through the processes that are required by our operating procedures but not dragging on and dragging down the engagement of the community because we're all familiar with the stretched capabilities and bandwidth requirements.

I had 5 and then 4.

MICHELE NEYLON:

I think I'm #5. I am, yes. Woo-hoo! A couple of things. First off, with regards to Kavouss' comments about not changing policies, I'd have to vehemently disagree. Within the ICANN circus, you have contracts that should be stable, which I would view as being constitutions. You don't touch them that often unless you

absolutely have to, whereas the policies are the laws that are enacted. Those laws and those policies need to be updated to reflect reality. As I said in a previous intervention, many of those policies were drafted and created and enacted when the entire environment and landscape that we were dealing with was very, very different.

So while I would agree that we should be changing policies like we change our socks, we definitely need to look at them on a fairly regular basis to make sure that they are still fit for purpose. If they are not fit for purpose, then they need to be adapted.

But more to add something new to the conversation, we've been looking at this through the lens of policies that are impacted. We haven't really touched on contracts that are impacted. Many of the outcomes of both Phase 1 and probably Phase 2 will have impacts on both registrar contracts, registry contracts. Potentially they will have impacts on the data escrow contracts. They could have impacts on other contracts that may exist that I haven't thought of.

Of course, you can't get into contract negotiations and renegotiations every three or four months either because that does not work on any level. So that's something that definitely needs to be looked at.

Another one which hasn't been touched on in this session but I think most people around this room are probably aware of is that WHOIS as a concept – it's the protocol that's going away. What that means in reality is that some of the challenges and issues that currently exist due to the way that people have replaced the output for various data points or not will probably disappear. Now, that will bring a whole new set of challenges. I'm not negating that.

But, for example, in the case of a thick registry – I'll pick on Donuts as my learned my friend who shares an [inaudible] with me]who is now] in the back – if you look at the WHOIS output from a Donuts domain at the moment, it will explicitly state in plain text to refer to the registrars WHOIS output in order to get access to certain data points. When RDAP comes into play, that will disappear, so you should have the direct referrals. So whatever we've put in, but that an e-mail address alias or a URL to a webform, will then be populated.

Again, coming back a little bit to your own intervention and that of Kavouss, not all of these changes are necessarily policy changes. They're more operational implementation changes, administrative changes. Looking back again at the WHOIS reminder, if a field is no longer collected, processed, and used, then obviously you no longer remind people about it because the data isn't there. If the contact point that you were using

previously has changed but you still have access to a new one, you change that as well. That is not a fundamental change of policy, but there are others that will require policy changes.

Unfortunately, policy changes, even if there is general agreement around where we need to get to, we nearly always end up with curveballs. There is something that we haven't thought of or there is use case that is not core that we end up having to be catered to. More often than not, those processes take way longer than was planned.

So, Alan, much as I'd love to see fast PDPs, I've yet to see one.

KEITH DRAZEK:

Thanks, Michele. I think actually I'm going to agree with both you and Kavouss in this moment because, recognizing there needs to be some stability around policies, there are going to be moments or times as this where policies need to be changed and reviewed and assessed.

A reminder to everybody that consensus policies by their nature, by their definition, change contracts. I think to say you can change policies or consider policies but not change contracts, when you're talking about a GNSO PDP and the consensus policies that result, it affects a contract change. That's how it's done.

I have #4 in the back, #3, Kavouss, #5, Stephanie, and then we need to draw this to a conclusion. We are out of time. So 4, 3, and 5.

RUBENS KUHL:

On the WHOIS conflicts with privacy law policy, the simple fact that the PDP exists means that the policy failed to deliver because otherwise we wouldn't need any PDP. We'd just use that policy to change whatever implementation we had before to make it suitable for that privacy regime. So if it's something that we have been [inaudible] the GNSO if the past few years which is evidence-based policy making, that's evidence 0 that policy failed. Let's do a different one because that one doesn't work.

KEITH DRAZEK:

Thanks, Rubens. I think that's a great comment and exactly the type of thing that, for everybody else's benefit, the GNSO Council will be looking at. As we look at this holistically, we had this process that was clearly not working. It was an exception-based process. To Rubens's point, it's a demonstration that not just it but the need for it is, I think, demonstrating a failure of that and a need for something new and different moving forward.

#3, Kavouss, #5, Stephanie, and then I will conclude.

KAVOUSS ARASTEH: Thank you, Keith. I think I was misunderstood totally by the person who disagreed with me. He’s free to disagree. No problem. But I said we need to have a certain degree of stability. There is no absolute stability at all. It doesn’t exist.

When the ink of the policy has not been dried and we start to change that, that is not good. That is what I said. So you could have a team or a group or people look into the policies to see whether they need any review, but as soon as the policy is established as consensus policy and immediately you start to change that, that is not good. So I don’t think that that disagreement refers to what I said. But I have no problem with anybody agreeing or disagreeing. Thank you.

KEITH DRAZEK: Thank you very much, Kavouss, for the clarification. Much appreciated. Stephanie, you have the final word before I wrap up. We are out of time.

STEPHANIE PERRIN: I do apologize. I strolled over here late, so you may have already covered this. Under this, is urgent mitigation required, did you do or are we going to do or should we do a risk assessment as to whether existing policies that are on the books reduce confidence

in the model that we will be consulting with the data commissioners on?

I would humbly suggest that there's a few in there, even the one that I said put a red X on it and keep it there -- maybe it might be a good idea to erase it and put a different market in because frankly some of these policies, if they're still in place and they haven't been reviewed under GDPR and they're now disproportionate – thick being one that leaps to mind – we're behind in the review. It's going to reduce the trust in the model that we do come forward with when we consult. That's just a proposition. Thank you.

KEITH DRAZEK:

Thanks, Stephanie. I think that's a really good point. I would submit that the beginning of this exercise and the work that the GNSO Council and ICANN org and the community are undertaking should be a sign that we are taking our obligations seriously, that we are going through the review of these. Whether we can make a change in three months or six month or twelve months or whatever it is, as long as we're going through this process and we can point to a recognition that there are open questions about the viability of these old policies or recognizing that there are potential impacts on those of the new policy I think at least will

demonstrate that we're not resting on our laurels as it relates to assuming that old policies are the right approach.

I hope that answers your question. I think your comment was a good one. We'll take that onboard about the possibility of a risk assessment.

With that, we are over time now. I'd like to thank you all very much for participating today and providing your input. This is just the beginning of this conversation. Out of this process today here in Marrakech, we will produce an updated document that we will share with the community that has much more detail. I just want to say thank you again for this, the beginning of a very important dialogue.

Thank you. We'll conclude this session now.

[END OF TRANSCRIPTION]