

---

ICANN74 | Policy Forum – GNSO: Registration Data Policy IRT  
Monday, June 13, 2022 – 15:00 to 16:00 AMS

ANDREA GLANDON: Thank you. Hello and welcome to the ICANN74 Registration Data Policy IRT session. My name is Andrea Glandon, and I am the remote participation manager for this session.

Please note that this session is being recorded and is governed by the ICANN Expected Standards of Behavior. During the session, questions or comments submitted in chat will be read aloud if put in the proper form as I will note in the chat shortly.

If you would like to speak during the session, please raise your hand Zoom. When called upon, virtual participants will unmute in Zoom. On-site participants will use a physical microphone to speak and you should leave your Zoom microphone disconnected but do please raise your hand in Zoom. Those not seated at a microphone may use the aisle microphone to speak or come up to one of the open seats here.

For the benefit of other participants, please state your name for the record and speak at a reasonable pace. You may access all available features for this session in the Zoom toolbar. And I'll just ask everyone to remind you to speak close to the

---

***Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file, but should not be treated as an authoritative record.***

---

microphone due to the masks to make it a little more able to be heard. And with that, I will turn the floor over to Dennis Chang.

DENNIS CHANG:

Thank you, Andrea. Welcome, everyone, to this ICANN74 IRT meeting. Is everybody situated? This is our public open session. So as we have done before, we're going to do something a little more than—let me see. This is our #75 meeting and here's our agenda. I'll give you a quick overview of the project for those newcomers. And then we are going to have our regular IRT working session. At the end of the meeting, I will leave about five minutes for Q&A. This is a time where the public or anyone, even if you're not the IRT team members, can ask questions to me or to the IRT. So that's what we're doing. Let's get started.

So very quickly, this policy, of course, is known as the EPDP, generally EPDP Phase 1 Recommendations Policy Implementation. It started back in 2018 with the EPDP team creating the recommendation, and then Board approving those recommendations and making a resolution of the 29 recommendations, two of which have not been fully adopted. But since then, there has been progress. They have now two scope changes, I will say. The first scope change was in July of 2021 where the Board asked us to accept four recommendations from what's called Priority 2 Phase 2 Recommendations. So we have added that scope to the implementation. Most recently, in

---

March of 2022, we received a Supplemental Recommendation for the Rec 12 that has also been added to our policy implementation.

So that's what we're doing. So when we look at this project, we look at it in four parts. First part is the policy language itself, so drafting of the policy. And there were reports and studies that the recommendations asked for, which are being developed and delivered. We have also data protection arrangement that is part of this policy implementation. On the bottom right there, we call this Rec 27. But it's to analyze the impact of this policy to the other policies that we already have, and that has to be delivered. So that's the scope of the project.

So what have we done to date? Here's a long list of deliveries and more list of deliveries. What we're doing now is a couple of things in pickpockets. One is the RDAP Profile redline that are being created. And then the other thing is the policy language. So today we're going to be looking at policy language, and we'll work on those.

But probably at this time, to the RDAP Working Group, Roger, have you guys met as a working group since the last time we talked? And if so, is there any further progress? Are you on track to deliver by this month, you think?

---

ROGER CARNEY: Thanks, Dennis. I thought I saw Marc. We did meet actually last week and we made good progress. It looks like we'll be with a good draft by the end of the month.

DENNIS CHANG: That's excellent to hear. So let's go on with our normal IRT meeting. This is how we typically do our meetings. We post our agenda and all the meeting records on the IRT wiki. This is for public consumption so you can come in here and see everything that we have been doing. We typically start our meeting with a welcome and check-in.

So today, we have an important announcement, and that is today is Owen's birthday. So, everybody, wish Owen a happy birthday. Thanks for coming on your birthday, Owen.

OWEN SMIGELSKI: Dennis, a joke I keep making is that I was born in 1974. So, me having my birthday on the first day of ICANN74 had to happen in person.

DENNIS CHANG: Wow, you plan that well in advance. Very well done. Okay. So I did the overview. So let's see. We just got a quick start from the RDAP Working Group. So let's get started with item 4a Section 5. This is the Data Processing Specification section. We have this

---

document we affectionately call One Doc. This is the policy language here.

We have our table of contents. And just so that you know, I had originally, initially thought that we just remove the table of contents, but by popular request, we have added the table of contents back in. We heard that this was very useful, so why not just keep it as a permanent feature of the policies?

So what we are looking at today is Section 5 Data Processing Specification. So here, I have to say that I was inspired by Beth at our last meeting. Beth, you threw out a challenge for me, all of us to think about why do we need this section at all? Always an important question. So we actually thought about that and we came to realize, “You know what, maybe we don’t.” The first two sentences here, we thought that you’re really right on there. We really don’t need that language. But the third one, we decided to keep it. The reason is that the third statement there was very specific about what we are requiring as a consensus policy. Without having some language in our policy document, the Data Processing Specification, which you’re working on, would not have a direct link to the authoritative source of where that requirement came from. So we thought it was important to keep that. Maybe at this time, I’d like to ask Beth and Cyrus. As a DPS team—that’s what I’m going to call you guys now, DPS team—how’s the progress there? Is there anything you can tell us at this time?

---

BETH BACON: I raised my hand in the room like you told me to. Can I comment on the edit first?

ANDREA GLANDON: Beth, can you pull the mic down just a little bit?

BETH BACON: Is that better?

ANDREA GLANDON: Yeah. Thanks, Beth.

BETH BACON: Thanks, Andrea. On the edit, I still wonder why we need it. If we're going to have this as a contractual obligation, it's already going to be part of the contracting process. But if we put this in here, this is something that Contractual Compliance is going to have to evaluate and enforce. I think that ICANN Contractual Compliance has made it really clear that they are not going to evaluate where and when a law is applicable to a contracted party. So I have a concern that this is going to create some sort of obligation that we and ICANN maybe don't want.

When we started with the DPA doing all of this drafting for One Doc, we went through all the sections, and there were several

---

sections where we said, “This doesn’t actually need text in the in the consensus policy,” and this was one of them. So I don’t think that we’re going to lose the requirement. I think this may create something new, which is not what we want. That’s my comment. But I super support the deleting part.

AMANDA ROSE: This is Amanda Rose for the record with Compliance. As far as creating any new obligation, I don’t think that this sentence does ... what it would help with is when contracted parties already acknowledged that they do have to have this data agreement or specification prior to providing such data to ICANN.

DENNIS CHANG: Was that understandable? Yeah, go ahead, Beth. Do you want to come back?

BETH BACON: No, I’m sorry. You said prior to what?

AMANDA ROSE: Prior to providing registration data to ICANN Compliance.

---

BETH BACON: So Compliance envisions this as you would say to a contracted party, so you're just going to make a third party request for disclosure or are you going to say, "Hi, we're ICANN. We would like this data. Do you have the DPA in place?" I feel like that is a little bit contradictory to things, other discussions we've had, so I'm just unclear as how that's going to work operationally.

AMANDA ROSE: Sorry. Can you clarify the first thing you said?

BETH BACON: Would you be making, as ICANN, a third party request for registrant data? Or would you be saying, upon every request for data from a contracted party, you would just check to see if a Data Processing Specification was in place?

AMANDA ROSE: The obligation to provide the data to ICANN would be just through what's already established through the contracts. I think that's consistent with what the recommendation—which one was it? Recommendation 9—we established as well, which doesn't require any additional language for contracted parties to provide that data. So essentially, the situation would be whether or not an agreement needs to be in place according to the position of the contracted party to transfer data to ICANN Compliance or ICANN Org, I should say.



---

BETH BACON: So the contracted party is making the choice. But if the contracted party were to say, “I don’t think I need one,” and then we wouldn’t send you the data, then that would be okay?

AMANDA ROSE: No, no. Essentially, what we’re trying to prevent is a situation where a contracted party might say, “We need to have a data protection agreement, data protection terms in place.” And in such situation, we’re not going to provide data without this but we’re also not going to enter into it, so that becomes like a catch-22. Whereas you’re not entering into the specification and you’re also not willing to transfer data based on the fact that such terms are not in place. So essentially, we’re trying to make sure there’s some language that establishes that if the applicable law does require that agreement or specification to be in place that there is an obligation to then enter into it. Does that help clarify?

BETH BACON: I think it helps but it also raises another question for me, and I appreciate the discussion very much. If a contracted party says, “I have evaluated, I don’t think that the law applies to me,” but then there’s an outside complaint or Compliance as says, “Well, we need the data and we think it does apply,” how is that

---

resolved? Because at that point is ICANN going to make a determination or analysis of the applicability of a law on a contracted party?

AMANDA ROSE: You're referring to like a third party request for data?

BETH BACON: No. I'm referring to if ICANN says, "We're requiring you to send us this data," and a contracted party says, "I don't know that we can send you this data under a DPA or if you don't have a DPA or I don't think I need a DPA." If that's going to be this contracted party's choice, then how is that resolved? Is ICANN going to say, "We've undertaken an analysis and we do think you need a DPA, and then you can send it to us"? I'm concerned about the closing the loop there. And I'm concerned about ICANN Compliance getting into a position where they're saying, "Well, we think that the law applies to you."

AMANDA ROSE: So essentially, that's something we want to avoid. I would say. That's what we've tried to establish before. I think through the implementation notes and the draft that we discussed in past sessions, that was kind of the point that we were trying to get to. So with this language, it's the contracted party's discretion to determine if the applicable law applies. And in such cases, if the

---

applicable law does require it, then we turn to the language that we've drafted here that they then have to go and take that step to enter into it. So it's not Compliance's position.

BETH BACON:

I appreciate it. Thank you very much. Dennis, can we put a pin on it? Then we'll talk about it. Maybe the contracted parties can think about this a little bit. I think it's not where our heads were. But I really appreciate it. That's very helpful. Thank you.

DENNIS CHANG:

Yeah. I don't want us to go back and re-discuss the thing that was established for us through GNSO in the Board, and that is the determination whether or not there's legal basis that's based on the contracted parties. You guys do that. I think that's established. So this is not to confuse that with this. This is that if you have determined that there is legal basis and you are going to have a DPS, then this is the policy language that obligates the contracted parties to do so. That's what we were trying to retain here.

Thank you Beth and Amanda. Are there anyone else who would like to talk about this? I think the first deletion is a good deletion. So we'll probably go ahead and proceed with that. But we will, of course, leave it open for you to come back and comment. Alex, do you want to have a comment on this?

---

ALEX DEACON: Hi. Not so much a comment but just a question about this last five minutes of conversation. Is that only applicable to the DPA between the registry and the registrar? Are we talking about all DPAs? It wasn't clear to me.

DENNIS CHANG: Let's see. Registry or registrar to enter into the Data Protection Agreement with ICANN in order for the processing of personal data in registration data to comply with the applicable law, the registry operator or registrar must enter into Data Processing Specification with ICANN. That's the language we're talking about. So we are only talking about DPS here under the subject of five DPS.

ALEX DEACON: Okay. I'm always learning so thanks for that. So what we're saying is that the DPA between the contracted parties and ICANN is optional. It may not exist, I guess. What this language is saying—I believe it's the same language in the policy—is that if they needed to comply with applicable law, then it may exist. If not, then they may decide they don't need it. I think that's what we're saying, right? Again, I'm just trying to understand. I'm not questioning or arguing. I'm just trying to wrap my head around what path we're walking down because I'm not part of the DPS

---

negotiations and discussions, but I'm just trying to understand implications of these words on this page.

DENNIS CHANG: Anyone else before we move on? Let's see. So after this discussion, we'll give you some more time to think about it and come back with comments on this particular change on Section 5.

ALEX DEACON: I don't know what to think about. I'm just trying to clarify what has been decided. I don't know. It's unclear to me.

DENNIS CHANG: What we're trying to decide is, number one, the deletions of the first two sentences, which I will accept based on comments that I've heard and inputs that I heard today. I don't think we need them.

The third sentence, I think that that one, we need to consider further. So we're going to allow some more time for you to consider before we make a decision on that. But I do feel like we do need Section 5 and having it all gone, that doesn't seem right to me. So right now, that's where I am. Okay. Thank you for that.

We're done this Section 5, the DPS discussion, and we'll go on to Section 8.1.2 and 8.2.2. So this is the Creation Date and Name

---

Server information or data elements that we added at our last change. We brought out some language, a rationale for that. But having heard from you at our last meeting—thank you, Marc, for your contribution at our last meeting, that was very meaningful—we’re going to go ahead and delete the Creation Date data element 8.1.2, 8.2.2 Name Server from the list. So this is, in effect, going back to the way it was before the change. So what I’m going to do is leave a note here for Sam to reject the suggested addition for 8.1.2 and 8.2.2 also.

Thank you, Roger, for your input too. That our understanding that the EPDP team has indeed discussed this and decided with the data minimization principle that it was intentionally left out. It wasn’t an oversight. So knowing that, of course, our duty here is to implement the intention faithfully, and that’s what we’ll do.

Any comments? Everybody okay with that? Okay. That’s good. Thank you. Is there a question?

BERRY COBB:

Dennis, you need to watch the queue in the Zoom Room. We’re at hybrid. Just a follow-up on the recollection from Marc and my memory lapse, I did go through the prior data element workbooks. And to Marc’s specific point when very early in the deliberations, it was determined that the name servers was indeed a current escrow requirement. I think it was even the design of the particular data element workbook was the kind of

---

the first generation of it. But I did find indeed a redline deletion of that particular data element. Unfortunately, though, I think it was still an error that the Creation Date wasn't properly reflected as an existing requirement. But anyway, I just wanted to put emphasis on there that I did find a breadcrumb about the removal of that particular data element just to have some clarity behind that. Thanks.

DENNIS CHANG:

Thank you, Berry, for going back and doing some homework there for all of us. Thank you, Marc. I don't know how you remember these things from like, how many years ago this is, as busy as you are. That's just incredible. But really helpful. It's really good to have IRT team members who were originally part of that EPDP team still with us. We're very fortunate. Okay. So that's 8.1.2 and 8.2.2. So we settled that.

I was fleshing this earlier. As you note, this is our status map. Do you remember this? So we've been tracking our progress and updates. So we had turned this into blue again, Section 8. But with those two changes, now it's going to go back to green, we are clean with Section 8.

Now we're going to go to Implementation Note, which is blue here, requiring your review. That's what we'll discuss next, and hopefully we can get through that, too. And that is HNI Implementation Notes. So we added this. Gustavo in particular,

---

who's obviously very experienced in dealing with all these data elements, realized that clarification on what these data elements really meant to implementers was important. So added these two notes for himself as well as the other implementers, and we received a comment from that.

Beth, did you have a chance to look at Gustavo's response to you? It's rather long and kind of comprehensive. But if you haven't, that's okay. I mean, we'll give you a time to do that. But he's making a good argument that we should keep these two notes. I think it helps more than hurts. Do you have a comment on this now?

BETH BACON:

Sorry, Gustavo. Thank you for the very thorough response. I haven't read it yet. That wasn't necessarily me. It was the contracted parties. I was just the designated scribe for that one. So if anybody in the contracted parties feel like commenting and has looked at Gustavo's note, then please go ahead.

DENNIS CHANG:

Yeah. So there are other contracted parties. So don't be quiet if you guys have other inputs. We'd love to hear it. Go ahead, Marc.



---

MARC ANDERSON: Thanks, Dennis. I also haven't read Gustavo's response so maybe this is covered. But just sort out of curiosity, why are these added here in this Appendix section instead of the previous Definitions section? It seems a little inconsistent with where we're defining terms.

DENNIS CHANG: Your question is, why are they added in the Implementation Notes rather than Definition?

MARC ANDERSON: Yes, exactly.

DENNIS CHANG: Okay. We thought that Implementation Notes was sufficient for our policy language here. We didn't want to start creating a "definition" for Creation Date or Updated Date in general. That's why. It's as simple as it seemed appropriate.

Any other comments? So have a look at Gustavo's reply to you. I think you'll find it very helpful in understanding why you would like those notes left there. And if you have no real objections, I like to accept those two additions and move on. But I'll give you some more time to review it. Then I'll remind you via e-mail later. So that's Section 8. I mean, that's the Implementation Note.

---

This document here, Drafting Errors document, we had added a interpretation note number six, trying to describe the other a1 and a2. But with the way we have just changed it, I think what we'll do is redefine. I don't think we've done that. We rewrite the rationale.

Let me turn to Berry here. Berry, would you take the action to redo the notes, the Drafting Error? Okay. Berry gave me a thumbs up, you can see but yeah, he'll do that. So it will be consistent with the policy language. But I think it does deserve some language here, the notes here, so that we do not have these questions come up later and other people are thinking that we forgot a couple of data elements. So let's do that and move on.

We come to public comment preparation, number six here. Let's see. I think Andrea sent announcements to you. But as you all see, this is our ICANN Org Public Comment Upcoming Proceedings page. You now see that our policy has been entered into the upcoming public comment list. August 2022 is the month that we're targeting for our public comment. So it's been a very long time coming. But I think that we're in pretty good shape as you saw from our status map. Implementation Note, we're almost done with that. And we already fixed the 8 and 5, we're getting close. The policy language itself I think we're in pretty good shape. I think by the end of the month, we'll be able to finish the policy language. Then RDAP Working Group is going

---

to deliver the RDAP documents. The only thing that would be left is the DPS that we haven't seen yet. I know that the team has meetings here at the ICANN. Let's see. Cyrus maybe. Do you want to give a quick update or status on what the DPS team is doing?

CYRUS JAMNEJAD: Sure, Dennis. Thanks. This is Cyrus Jamnejad from ICANN Org. You summed it up. We have a couple of meetings this week to discuss with the CPH Negotiation Team. Thanks.

DENNIS CHANG: Thank you. Go ahead, Alex.

ALEX DEACON: Just to repeat the concern I raised before, I think our job is incomplete without the existence and the entering into the various DPH required by the Phase 1 policy. So I'm uncomfortable with going to public comment without those. I understand it's a process and it's difficult. But it seems risky to do that as they are so fundamental to the policy that we agreed to in Phase 1 at a minimum. And I think I asked Cyrus to look at this on the last call, we need ICANN Org to confirm that the assumptions that we made in Rec 20 are in fact not going to change, or if they are going to change, we need to know that. So there's still a gap there, and I think it would be a mistake to go to

---

public comment without understanding what these DPAs say what the roles and responsibilities are.

CYRUS JAMNEJAD: Thanks, Alex. In response to your question about Recommendation 20 and any changes there too, we're working on a response that we can share so that hopefully should address any concerns without determining whether that does or doesn't require completion prior to public comment. But we'll be getting you a response to that. So thanks for following up. Thanks.

ALEX DEACON: Thank you, Cyrus.

CYRUS JAMNEJAD: Sure.

DENNIS CHANG: Thank you. I don't know for those of you who haven't seen this yet, but I do want to remind you that we did have a tutorial that Cyrus provided at our last meeting. It's called DPS tutorial. It's on our wiki. I wanted to just remind you that it's all here. So have another look if you want, if you need to.

---

The thing that is most important to me as the project manager of this policy implementation is this part, number five here, this here, it was very specific question about FAQ. Does the DPS change anything about the policy itself? And the answer is no. So if that's the case, do we really need to wait for the DPS? Why couldn't we go to public comment and receive those comments and we'll continue to work on them while the DPS team continues to do their work in providing the DPS. That's the way I see it right now. But we'll probably give you more input as we go and provide status.

Let us talk about public comment. I showed you the posting of our upcoming proceeding. What our plan is that for public comment—this just so happens because we have been doing our work publicly, meaning that we have a nice wiki page where we have been capturing all our work products, all the things that we need for public comment are already here available to the public. All the reports are here, correspondence, our draft language is also available here, and all our red docs are here. All the reference materials and tutorials are all here already.

So our plan is really do a landing page that looks like this. Let me see. This would be a landing page when you collect on the public comment. Isabelle, I think is online, has been working hard to provide instruction for us. She provides background information, which you all know, and what the next step are. Here are the supporting information and research and studies,

---

everything that we have been doing, all available in guiding the reviewers to the information on the wiki page. So that's our plan.

When we do collect our public comment, we'll be using a guided form such as this and ask specific questions about each section. That's what our plan is. Section 2, Section 3. Because of the way we have laid out our policies by section number—let's go to the table of content. It's our intention to guide the reviewers to provide comments per each section using a submission form such as this. So that's our plan. Now is Isabelle on here? She is? Let me ask Isabelle if she wants to add anything to what I just said.

ISABELLE COLAS: Hi, Dennis. Can you hear me?

DENNIS CHANG: Yes, loud and clear.

ISABELLE COLAS: I don't have anything additional to add. I think you've gone through it properly. As Dennis mentioned, the first public comment form, we intend to go through each section of the Registration Data Policy to inquire—no, Dennis, that's the—there you go. Thank you. As Dennis mentioned, we'll be going through

---

each section of the policy and specifically ask if there's any consistencies with how the recommendation is included or interpreted in the Registration Data Policy. And then we provide an option to support the section as written, support the section with the intent if wording change is required, as well as significant change if it's required as well. And then not all of the sections have the option to suggest the language to be deleted completely, only the sections that are not specifically tied to the policy recommendations are that's included. And if the commenters have no concern with the language that's included, then they can include no comments. Thank you.

DENNIS CHANG:

Thank you, Isabelle. Any questions on how we plan to do our public comment? I know that a lot of you are already familiar with using the guided form. That's the new way we're doing public comments now. I think it'll help us when we gather all the comments because I'm going to be asking the IRT to review those comments with me to see if we need to take any actions on our policy. So they'll be coming.

But at this time, I want to get some feedback from the IRT on the comment duration. You know what it is. The policy language is a few pages long, specifically 12 sections, a couple of addendums and implementation notes and background. But it's not the only thing that we're asking public comment on. We're actually

---

wanting public comment on all these redlined documents that we have created and reviewed. And all this redline were going to effect at the same time as the policy in a synchronous mode. So they can all stay consistent. So this is a lot to review.

I don't know if there's one person reading the whole thing or there's a team that's going to divide it up. I know that I've seen each group assign people to do the reviews and bring it back to the team and all that. But typical duration is 40 days for our public comment. With this, we probably need more, but I'm not exactly sure how much more we should allow. What I see a lot is that no matter how long the duration is, that people really don't get to do the reviewing work until the last days. So it really didn't matter and waiting time is not really used.

Any inputs? I'll be happy to hear from you. I know that some of you will probably be assigned to do the review, but I don't know if that's really a good measure of how long we should be allowing for review. If there is no comment, that's okay too.

ANDREA GLANDON: Dennis, Marc has his hand up in Zoom.

DENNIS CHANG: Go ahead.



---

MARC ANDERSON: Hey, Dennis. I'm just thinking out loud a little bit, which is dangerous and probably not a good idea. But reacting to your point about all the comments that need to be covered, including the redlines to the existing policies, that certainly is a lot to ask all groups to do. Again, just thinking out loud, I'm wondering if it would make sense to send it all out for public comment at the same time but have different due dates for them. If we received all of them at the same time, I don't think we would get to them all at the same time. We would do one than the other. So maybe we could give a different due date for the One Doc than for the redlines to the existing policies. Just a thought.

DENNIS CHANG: How interesting. Berry had a similar thought. Sort of a different scheme, but I think you guys are thinking similarly. I kind of like that idea. It'll make it easier for us too if we get the One Doc comments, feedback first, work on those. And then we can receive the Red Doc comments later and we can work on them, like a second stage. It'll make it easier for us too, I think. It's a good suggestion. Anybody else? No? Okay. Thank you for that discussion.

Now what I'm going to do is leave some space for our public Q&A, item number seven, for our pulse here to see if we have any questions from the public. While waiting, are there any IRT team members who would like to say something or make a comment

---

in any way? One thing that I promised some of you is that I would apologize in advance if I seemed to be a little pushy or aggressive. Because now that we have published our timeline, and if you look at our timeline, what we have designed is we opened public comment in the third quarter. So right now we're targeting August 2022 so that we can publish our policy next year so that we can finish our policy effectiveness or the implementation is done within 18 months that we've already agreed to. So that gets us at the end of 2024. I certainly don't want us to take any longer and start talking about 2025. We have a, I think, good reasonable timeline. We published the schedule, let's all try and work together to make this happen. I'm finding ways and figuring out how we can make this happen. So that's one thing that I wanted to let you know. If there's no more questions, no more comments, I'll be happy to conclude the meeting earlier. Andrea?

ANDREA GLANDON: Okay. We can stop the recording. And this concludes the session for today. Thank you for joining.

DENNIS CHANG: Thanks, everyone. I'll see you at our next meeting. I don't know when our next meeting will be.

**[END OF TRANSCRIPTION]**