ICANN81 | AGM – GAC Discussion on WHOIS and Registration Data Issues
Monday, November 11, 2024 – 13:15 to 14:30 TRT

JULIA CHARVOLEN: Hello and welcome to the GAC discussion on WHOIS in Data Protection Policy. My name is Julia Charvolen from the GAC support team. Please note that this session is being recorded and is governed by the ICANN Expected Standards Behavior and ICANN Community Anti-Harassment Policy.

During this session, questions or comments will only be read aloud if submitted in the chat pod. Interpretation for this session will include all six UN languages and Portuguese. If you'd like to speak during the session, please raise your hand in the Zoom room. Please state your name and the language you will speak if other than English. And remember to speak at a reasonable pace. As a kind reminder, tables with microphones are reserved for GAC members, observers and guest speakers.

I will now hand the floor over to Nico Caballero, please.

NICO CABALLERO: Thank you very much, Julia. Welcome back, everyone. I hope you had a fantastic morning. I hope you had enjoyed the Turkish coffee and the touristic attractions and you had enough time to walk around the beautiful city of Istanbul.

I'll give you an overview of the afternoon and early evening sessions today. This session will be running for 75 minutes. That is till 2:30pm Then we'll have a short coffee break. We'll continue with the GAC meeting with the CPH. That session will be running for another 60 minutes. Then we'll have another coffee break and finally we'll start with the first communique drafting session for a general review and to more or less have a sense of what the rest of the week will be.

So let me welcome, at this point, Gabe Andrews from the. He's the co-chair of the Public Safety Working Group and works for the US FBI. Let me also welcome Owen Fletcher (is Owen here?; yeah) from the U.S. Department of Commerce, NTIA, Laureen Kapin from the U.S. Federal Trade Commission, and Melina Stroungi (I hope I'm pronouncing your last name well) from the European Commission. Welcome, everyone.

And without further ado, let me give the floor to Laureen Kapin, who's going to give us some background on WHOIS and data protection. Over to you, Laureen.

LAUREEN KAPIN: Good afternoon, everyone. The post lunch session. Hopefully we'll keep it energetic enough so we don't get into the post-lunch energy slump. So I'm Laureen Kapin, and I'm speaking in my capacity as a member of the Public Safety Working Group.

And what you see before you is just a little roadmap for today's session. We're going to be providing some background on WHOIS and data protection. Many of you are familiar with this, but actually I'm sure there are also new people in the room, so we do always provide some basic

background, so we're all in the same place in terms of what this data is and why it's important.

Then we'll be discussing urgent requests for disclosure of registration data. And we're trying actually to make sure you get an opportunity to ask your questions, not just all the way at the end where sometimes things get cut off, but during the session. So we're going to have to balance giving you an opportunity to ask those questions, but still staying on track so we get to everything.

Then we'll move to the RDRS. And that stands for Registration Data Request Service. That's the pilot program that is in place currently to give us data on request for domain name registration data through this specific system.

We'll go on to privacy proxy services accreditation. Those are some recommendations that have been on hold for a while that are now being looked at again to see if they are still feasible and up for the current situation.

And we will move on to accuracy of registration data, another work stream that has been paused.

And finally we will get to something very important to all of us: considerations for the communique. So with that we're going to launch right in.

So WHOIS and data protection. What is this and why is it important? The domain name registration data, which also is sometimes referred to as WHOIS, as in who is the person or the entity that is responsible for that

domain, has been a topic of interest to the GAC for quite some time. In fact, going back all the way to 2007, the GAC set forth some principles that are still on point, predominantly, for what these services are and why they are important. And even in 2017, 10 years later, the GAC has noted that this isn't just something that was important in the past. It continues to be important. It continues to reflect important public policy issues and also recognizes that this data is used for a number of legitimate activities, including assisting law enforcement authorities in their investigations and in enforcing their national and international laws.

And I'll note that that includes privacy laws. It's not just to get at bad guys and girls who are trying to rip you off in terms of getting your money, but it also helps authorities enforce privacy laws when people are scooping up your personal information illicitly. So it assists in combating against the abusive use of the Internet system.

It also assists the private sector. Businesses and other organizations have an interest in combating fraud and safeguarding the interests of the public. And that particularly comes into play when the bad guys and gals are trying to impersonate companies and make you believe you're dealing with a legitimate company and in fact you're dealing with a crook.

Also, intellectual property interests are at play. IP holders have an interest in making sure that their rights don't get infringed. So they need this information as well.

And then finally, we talked about the government, we talked about the business sector, but what about everyone else? What about you and I when we're just end users? It also helps us to know that we can get some information under the right circumstances if we can make a legitimate showing, so we can know who we're dealing with when we are engaged in online activities.

So these are all still relevant uses when we are considering how to balance the interests of access to this information and also protecting privacy, also considering compliance with data protection laws.

So the GAC has advised that whatever system is created to have access to this information, it should be a system that facilitates these legitimate activities, and this information should be quickly accessible for security and stability purposes. Security and stability is a phrase we recognize a lot in the ICANN space because that is a fundamental concept enshrined in the ICANN bylaws. So we want to keep it quickly accessible for security and stability purposes and also to other organizations. So we want to keep it accessible to the public again to make sure that we're combating fraud, deceptive conduct, and all these other things that we want to be concerned about to stay safe online.

Next slide, please. So this is one of those wonderful timeline slides. And when we talk about domain name registration data, every time I see this slide, it seems to get more and more filled up. But let me focus your attention on some of the things in red.

So just to note, we started in May of 2018. Of course, we're in 2024. You can look and see that the Data Accuracy Scoping Team has been paused for increments of six months. That's why that's in red.

The registration data request service, which is a little bit on the third line towards the right, is intended to endure for up to two years. So that started last year. I think we're going to be reaching the anniversary in January, and that could go for up to two years.

You'll also see in red right in the middle (it's the little sandwich item) the privacy proxy work. So the privacy proxy work actually resulted in consensus recommendations, but those recommendations were paused with the advent of the implementation of EU privacy law. And now they're taking a look at those recommendations to see if they're still fit for purpose.

So you'll see at the very end there's a column for final access system that's blank. That's because we're all still engaging in this work to get there.

Next slide, please. So now I'm actually going to pass the baton over to my colleague Melina to talk about urgent requests for disclosure of registration data.

MELINA STROUNGIS: Thank you, Laureen. Melina Stroungi for the European Commission. It's very nice to finally be able to present in person here today. So I'm going to talk about the urgent issue of urgent requests that has been on ice for the last, well, one year and a half, almost during last summer. So to

just remind you what are urgent requests, basically urgent requests are requests for disclosure of non-public domain name registration data in circumstances that pose imminent threat to life, serious bodily injury, critical infrastructure or child exploitation.

Urgent requests were part of the Board-approved EPDP Phase 1 policy recommendations, specifically Recommendation 18. And as you may recall, GAC provided input on several stages of this process, including our public comments, back in November of 2022.

Ultimately, the registration data consensus policy was published and must be implemented by August 2025, but it was published without the section on urgent requests. And why urgent requests were not included was because we could not agree on what is the appropriate timeline to respond to such requests. So we as GAC supported that a 24-hour deadline to respond to such requests is fit for purpose, while contracted parties proposed to extend this deadline by two business days plus one business day in case of complex or multiple requests.

So I'm going now to also briefly go through the timeline saga. In a letter to the GAC, the ICANN Board concluded that it is necessary to visit the recommendation on urgent request and that the consultation with the GNSO Council is required. Then in ICANN 79 in San Juan, in our communique we issued some advice to the ICANN Board, advising that it should act expeditiously to establish a clear process and a timeline for the delivery of a policy on urgent requests, to respond to vital public safety interests related to such requests.

Next slide, please. The ICANN Board then sought the GNSO Council input on what the next steps should be and As a response to the GAC San Juan communique advice *phone rings* … Maybe this is an urgent call, maybe this is an urgent request and someone needs to reply immediately. So yeah, well, basically the ICANN Board did not reply in substance to the GAC advice, but it decided to defer action on the advice, noting that it plans to discuss the way forward with the GNSO Council. And then in a letter to the GNSO Council, the ICANN Board talked about the situation, which is an unprecedented situation, basically, because we are talking about a recommendation that has been adopted and so it has to be implemented. And this issue came up before the implementation.

Among the other things, ICANN Board noted that it generally agrees that urgent request is a matter that needs to be addressed urgently. And in fact it even said that a timeline of minutes or hours rather than days could be appropriate.

And the Board also additionally raised the issue of authentication, basically that data requesters need to be identified, stressing that such an authentication cross-border system is not available to ICANN currently and it cannot be created without the assistance of law enforcement and of governments.

Something that we as GAC took into account because we really wanted to help … So in our second GAC advice in Kigali back in June of 2024, we reiterated the need to establish a clear process and a timeline for urgent requests. But we also said that we stand ready to contribute to the work

of the GNSO in relation to possible solutions for authentication of requesters via the work of the Public Safety Working Group, the PWSG.

Next slide, please. The GNSO Council responded to the ICANN Board in August 2024 that the meeting should take place between the ICANN Board, the GNSO and GAC and PSWG representatives. And then the ICANN Board in response to our follow up advice in Kigali, determined to defer again action on this topic, again referring back to the GNSO and that the discussion needs to take place. So this has been going for quite some time, as you can see.

And then as the latest development, in October 2024, we, the GAC, proposed to the ICANN Board that two tracks of work could go in parallel. On the one hand, we could explore possible mechanisms to authenticate law enforcement requesters (at least to start with the law enforcement requesters and then see how this can be expanded), and then, with the hypothesis that an authentication mechanism exists, what would be then an appropriate timeline to respond to urgent requests so that we can move forward.

So we're hoping to discuss this proposal before ICANN 81. We had a trilateral call in 4th of November 2024 with the ICANN Board and the GNSO Council. The ICANN Board, during this call, stressed that it's open to considering our proposal for having two parallel streams of work, and it is expected to further consider our proposal. And also the GNSO Council is expected to discuss our proposal during ICANN 81.

Next slide, please. So next steps. So as I said, we see two tracks of work that can go in parallel, a policy one and a technical one. On the policy

one, we need to resume work of the EPDP Phase 1 IRT Implementation Review Team as soon as possible. Again, to be reminded, this is a policy that has been adopted and this topic has been delayed for significant time already. And as we explained in our GAC proposal, recommencement of the work on the IRT is not dependent on the work on authentication, so these two streams can run in parallel. Also, defining a timeline to respond to urgent requests is in the scope of the IRT, and there is significant expertise within the IRT because they have been working on this matter within years, so they should be able to move quickly towards the solution.

And regarding the authentication track, when exploring mechanisms to authenticate law enforcement requesters, as I said, GAC is exploring solutions to help and through especially the PSWG that is doing already some work on this front. In fact, we had a law enforcement workshop during ICANN 81 on Saturday, the 9th of November, where also Interpol … Europol of course. Gabrielle thank you. Gabrielle from the FBI already committed resources to help in this work and explained quite interestingly that there are a lot of authentication mechanisms currently available that we can use and leverage, which of course would reduce costs, and it would make things more efficient. And we discussed the idea of having a focused technical study group as a very useful mechanism to advance discussion and hopefully find a solution on the issue of authentication.

I will stop briefly to see if there are any questions. Thank you.

NICO CABALLERO: Thank you so much. Thank you, Laureen, for the introduction, and thank you, Melina, for walking us through the latest developments.

At this point, let me open the floor for questions or comments in this regard. Please stay focused on WHOIS in data protection and urgent requests. We're going to continue talking of course about RDRS and proxy services, accreditation and registration data and so on and so forth. But at this point let me open the floor to discuss these two very specific points, WHOIS in data protection and disclosure of registration data. Do we have the European Commission? Please go ahead, Gemma.

GEMMA CAROLILLO: Thank you very much, Nico. Gemma Carolillo from the European Commission. First of all, two quick comments. I think [inaudible] taking the right distance from the subject. So first of all, I think I've listened many times to Laureen presenting WHOIS, and it's never enough. Very clear. Thank you very much for working us through the technical matter in very, very clear fashion. And I would like to congratulate Gabriel and the colleagues from FBI for organizing the workshop on Saturday. We only hear positive feedback. And I think beyond the fact that this is progressing well, it also shows very much how quickly the PSWG and related parties and there were other parts from ICANN community taking part to the workshop are gathering together to take action, which is good sign and this is already the good news.

On the topic of urgent request, we are worried because the GAC has issued two advices, and we do not see any follow-up. So we are worried because the topic is of importance, and we are worried because we do

not see follow-up on the advice. This is of course it's prerogative of the Board to act on the advice, but to continue deferring action on advice is not a good sign vis-a-vis the GAC. From the GAC, we think we have showed a lot of openness and willingness to participate. I think several colleagues from the GAC were present on the trilateral call with the GNSO which was called with zero notice, basically Friday through Monday, irrespective of the time zone. Colleagues came en masse, I would say, in French. There was a lot of participation, and still we see that the GAC proposes ways/paths forwards and brings, to the table, solutions, but still this continues to be deferred.

So from our point of view, the mere fact of not acting on the advice is something we should take up with the Board when we meet them. And this is not a good sign. And otherwise we would really hope that the GNSO and the Board who have given openness to the proposal from the GAC will follow up on this openness and we can really move forward so that we don't find ourselves in ICANN85 still discussing advice on urgent requests because this is then not productive or effective. And thank you, Nico.

NICO CABALLERO: Thank you so much, European Commission. Indeed. You know, it would be very bad to get to ICANN 85 and still discuss the same issue. Thank you so much for that.

I have India next.

T. SANTOSH: Thank you, Chair. Now, the urgent request for disclosure of registration data has a history. It started from 2018. And kindly correct me. Then, post-EPDP, SSAD was discussed. Then, after SSAD, the nest agenda item was proposed, so. So, yeah, RDRS was proposed.

Now, what is the difference between the urgent request and the RDRS? Is it whether the urgent request will consider both gTLDs as well as ccTLDs? Thank you.

LAUREEN KAPIN: Can we get back to the slide on the timeline? I want to make sure I understand your question. Can you repeat the question for me one more time so I answer it precisely? What is the difference between …

T. SANTOSH: Yeah, the difference between the urgent disclosure of registration data and the RDRS? So as we all understand, that RDRS is for the disclosure of gTLD. So my question is whether the urgent requests of the agenda which we are discussing presently provides urgent requests on both gTLDs as well as ccTLDs Thank you.

LAUREEN KAPIN: Okay, so I think there's a couple of questions in there. Let me start with the ccTLD question. Urgent requests only relate to implementation of phase one of the expedited (ironically) policy development process. It is not part of the RDRS, and it only relates to this implementation of phase one.

In terms of ccTLDs, it doesn't relate to ccTLDs either because those are not entities that are covered by the registration data policy development process. Those exist somewhat independently. Does that answer your questions?

Good. Please.

MELINA STROUNGIS: Maybe in case it's useful to quickly remind you of the different policy development phases that we had, we had the EPDP phase one that resulted in the draft registration data policy. So these recommendations were adopted, the EPDP phase one. And then phase two was about the SSAD, the Standardized System for Access and Disclosure, where the recommendations, actually even if they were agreed upon, were not adopted by the Board. And then the RDRS basically is a pilot. I mean, also Gabriel is going to give an update on the RDRS. So it started to see if we can get feedback to continue working on the SSAD. And then we had a separate phase 2A on the issue of legal versus natural data. So these were like three distinct phases.

NICO CABALLERO: Thank you so much, India, for the question, and Melina and Laureen, for the answers.

For the sake of time and speaking of RDRS, I have the pleasure to give the floor to Gabriel Andrews from the FBI. Gabe?

GABE ANDREWS: Thank you, Nico. Hi. So this is Gabriel for the record, speaking in my capacity as co-chair of the Public Safety working group. Now let's talk about the RDRS. And as was just said, the RDRS is a pilot system that anyone in the world can use to request access to information about domain name registrations. It is something that might inform the development of the SSAD in the future.

Next slide. When we talk about why the RDRS is necessary, you can see on the left there is data that shows up that has been redacted. And if you are using public available tools, that's the sort of information you might expect to see more of today in a post-GDPR world. If you use the RDRS, you might get information that is much more like on the right, where you can actually see phone numbers and contact information associated with the domain's registration. All right, so that answers the question as to why someone might want to use this tool.

Next, we are part of the Standing Committee that ICANN has stood up to take lessons away from this pilot trial of the RDRS. You can see the assignments that were given the Standing Committee here, but in general, we are to identify trends in the data that this pilot RDRS is generating. We are to suggest potential updates to it or to how it's being promoted, and to take lessons that might inform the future development of the SSAD.

Next. You can see here a graph that I have created using ICANN's data that they publish monthly about the RDRS. I have tried to create this and we will go into this in detail to show the flow of the requests [and], from the left, the total number after 1 year of 18,000 domains input into the RDRS, and then how they are triaged through to their ultimate

outcome. If there's any errors, they're my errors. I did a lot of copying and pasting.

Next. One of the first takeaways is that we've seen in the first year 18,000 domains input into the RDRS that resulted in about 2,000 requests actually being submitted. Of those, 300 were from law enforcement. This, to me, is something I wanted to highlight as indicative of an awareness challenge amongst end users still, even after one year. And I say this because when I went to my chief information officer in my law enforcement agency and I asked them to do query for the last 90 days to see how many times our employees are visiting the old WHOIS tools (and I just picked three that I knew my colleagues use), we saw that there were more than 35,000 lookups by about 1,000 users in just my agency in just the last 90 days alone, which is 100 times the number of requests that were received from law enforcement or submitted by law enforcement over the first year of the RDRS.

And this is why, if we proceed to the next slide, one of the pieces of advice in our San Juan communique was to highlight the opportunity to use those old WHOIS tools and the data that is returned in a WHOIS query to educate people about the existence of the RDRS. It would really help awareness if at the same time that you were being told that data is redacted, you're also being told there is an RDRS that you can use to request access to that data.

The communication that we received back recently is that it might help if the GAC can explore this option with the GNSO Council. This is a communication back from the Board from October last month.

Next. Now let's talk about what we're seeing in the metrics of the RDRS. We see that there are about 6,000 users (6,500), and they have entered 18,000 domains. Of those times, the RDRS was capable of actually allowing a request to go through about 5000 times. Of those 5000 times, 2000 requests were submitted, and then there were various outcomes from there. But I think it is important to look at, well why, then, if 18,000 names were submitted, were there only 2,000 requests?

Next. We see that about a third of the time, the TLD, the top-level domain, associated with the domain that was input was one that just didn't apply to the RDRS at present. Many of these might have been country-code top-level domains. And this might indicate that there would be a demand by requesters. If we could enable voluntary participation by ccTLD operators, it might make this a more useful tool to requesters. Similarly, we saw, about a third of the time, that the domains input were for requesters or registrars that were not participating in the RDRS pilot. And obviously this would be a more useful tool if there was full participation amongst all registrars.

Next. Lastly, I want to call out that about 60% of the time that a request could be submitted, it wasn't. And it's difficult to explain why. We don't really know why that is, but we do know that some of the feedback that we've provided from the law enforcement and public safety perspective is that the form that the RDRS puts in front of the requester is kludgy. It's not a good word for the translators. I'm sorry. It has friction, and some of the feedback was intended to improve this friction and to make it more easier for requesters to fully complete a request to be routed to the registrars that will respond.

And next slide. The last high-level point. Some might think it valuable then to look at the requester perspective from the very beginning, all the way down to successful requests about how many requests end up being successful in that a registrar will disclose information about that registration to the requester. And if we do the math, going through from about the 18,000 domains that are input, from the 5,000 that could have resulted in a submission, the 2,000 that actually were submitted, and down to about the 450 that resulted in approvals, that's about 3% of the time it results in the disclosure of information. And this is not to say that every request is justified. Many of those denials could be perfectly valid. So it's not judging that.

I think the more important lessons are on the left hand side of that graph about how there are big swaths of requests that just aren't capable of being treated at this point that potentially could be room for improvement to make this a more useful tool.

Next. I'm going to transition now to talking about privacy and proxy data. And I circle this point because that's where it shows in the RDRS. If a registrar has a proxy service that they run, the RDRS response is most often that this data is already publicly available, which is to say that they're pointing to their own proxy service as the registrant instead of pointing to the customer of the proxy service. Some feedback from law enforcement has been that we are asking these questions because we're concerned about the person who's initiating that domain registration, that we don't need to hear what the proxy service is at play. And it has been a consistent point of feedback from law enforcement that that would make it more useful if registrars who are voluntarily

participating could also voluntarily respond on behalf of their affiliated proxies.

Next. And I'm losing visibility in terms of where we are on the slides. I see a camera on myself, but I don't see slides. Now I'm going to assume that we're at the proxy point. Do we have slides?

UNIDENTIFIED MALE: Sorry, we are having a little technical challenge. They're coming up.

GABE ANDREWS: Great, thank you. The next slide then, please. Perfect. So, talking about privacy and proxy services accreditation, I'm going to focus mostly on the proxy issue to start. When you look at the data here, when a proxy service exists, it is when a registrar will insert an entity between the person initiating the request for a domain and we the registrar. And that information often will show up in the registrant field itself.

Next. There is … Ugh, the slides fell again. I'm going to keep speaking in the interest of time. There has been a history of policy work done on the potential accreditation of proxy entities under ICANN, much in the way that registrars and registries are currently accredited. There was work done in 2016 to convene an implementation of policy surrounding the accreditation of proxies. That work was put on hold in 2018 when GDPR issues arose. That work now, after being on hold for years, has, this year, restarted. Since ICANN Kigali, we have now begun a reforming of the PPSAI IRT. Apologies to translators. That is The Privacy and Proxy Service Accreditation Implementation Review Team. We have started

that work. It is reviewing the initial report of policy that came back in the 2015, 2016 time and looking to see which of those recommendations are still relevant today.

And I'm going to continue still, yeah, if we have slides. Good. Moving on to the next slide after this, because I think that's what I just treated (great), the key points associated with this that we want to make sure the GAC understands is, now, when it comes to proxy services, again, they are an organization, a business entity that is inserted between the person or org that is registering the domain and the registrar, which changes the way that that WHOIS in registration data is presented. It means that the registrars are listing the proxy entity as the registrant, which means that's the entity information that shows up in the data and that requesters like myself trying to get to who caused the registration to happen don't see that as a rule. This has impact very much on other lines of work and most specifically on how the RDRS is currently functioning and potentially how the SSAD may function in the future.

All right, I'm going to stop there. I think that we have Q&A again before we switch to Owen.

NICO CABALLERO: Correct. So let me open the floor for questions or comments in the room or online. Any question or comment? And please try to stay focused in the interest of time. And I have Australia. Please go ahead.

INGRAM NIBLOCK: Hi, this is Ingram Niblock for Australia. I completely agree that awareness of RDRS is a huge issue. The stats I saw were that, I think, there were six requests from Australia in total, of which only two were from law enforcement. And we're really trying to do some work internally to sort of drum up awareness.

But I was just wondering, kind of a general question, does anyone have any sort of success stories about raising awareness of the RDRS and what it offers? I'd be really keen to hear them just so we can kind of emulate that in our own engagement. Yeah, we're really trying to drum up awareness, but it's just been a bit difficult.

GABE ANDREWS: So, first of all, I want to make clear that I actually am really grateful for all of the effort I've seen from ICANN staff to raise awareness amongst multiple requester communities to include law enforcement. About three weeks ago, I was alongside them at Europol headquarters, speaking to various European law enforcement agencies about this, trying to raise awareness. Most recently on the way here to Istanbul, I stopped in Kentucky to speak to my state and local partners inside the US. Every time that we've had these engagements, however, I usually see about 1 in 20 law enforcement agencies in the room were aware of it before we spoke about it that day. So that's about my anecdotal experience.

What I take from this is that our push messaging right now is not fully doing the job we'd like to do. And that again is why I think it is so very important to see a path toward having a direct link to the RDRS

appearing in the registration data itself because, for literally decades, investigators and cybersecurity practitioners have been using their favorite front end tools to query these WHOIS systems. And there could be a hundred different tools that they use, one of which ICANN operates, many more operated by commercial vendors, websites, et cetera. No matter which tool you use, there's one single commonality: they all get back that same WHOIS data. And if a link existed within that, you'll hit the requester community no matter where they are in the world.

That's why we've pushed this aside an idea. Obviously it will take some follow-up because it is not yet implemented or even agreed to, but that is perhaps the most effective means of actually raising awareness, in my personal opinion.

NICO CABALLERO: Thank you for that, Gabe. I have the Uk, India and Canada. Uk, please go ahead.

NIGEL HICKSON: Yes, thank you very much, Nico. Nigel Hickson, UK. Sorry, I'll be very brief. First of all, it's to thank the participation of the PSWG here. I know we haven't got a formal meeting with the PSWG, but thanks again for the really superb work they do and thanks this morning for this update, if you like.

Really, I mean, I've seen the flow diagram that Gabriel put up before. I love the curvy lines. But I really just wanted to ask you, (and I know

we've touched on this before to an extent) when the time will be right for the GAC, if you like, to go back with substantial comments on what we can consider shortcomings or other issues concerning the RDRS because when I show this diagram to other people, it's like you start with a whole pint of beer and you say, “Oh great, we've got this whole pint of beer to enjoy,” and, at the end of it, you just get a couple of drops, and you're not very happy. And you know, it seems a bit like this to an extent. And I know there are good reasons for this, but when one looks at the figure that … Well, two figures. When one looks at the figure that 30% or more of the requests go to offer registrars that are not in the scheme, then that really is of concern. And of course the denials figure as well., although I know there's good reasons for some of that.

So really the question was, when do we need to start codifying our thoughts? Thank you.

GABE ANDREWS: I can see that even within the RDRS Standing Committee, we aren't yet to the point of knowing what our timeline is for having a final report come out of that committee work. We do know that the RDRS is scheduled to not last more than one additional year. I don't have a better perspective though from that committee work yet for the timeline that's being contemplated there. But I invite others to speak to when GAC might want to create advice of their own.

NICO CABALLERO: Thank you for that, Gabe. And I understand that that deadline is next January, right?

GABE ANDREWS: I believe that RDRS launched in the late November of last year. So a two-year conclusion would be late November, or almost exactly a year from now.

NICO CABALLERO: All right, thank you so much. I have India next and then Canada.

T. SANTOSH: Thank you, Chair. So as we see from the infographics, the initial lookups are around 18,000, of which 5,967 includes that[,] of ccTLDs, the requests are not allowed. So can PSWG, along with GAC, engage with ccNSO? Since we have a meeting on Wednesday early morning, can we engage with ccNSO, request that the ccTLD operators join this RDRS? Thank you.

NICO CABALLERO: I wouldn't have a problem doing that from a GAC perspective. We can do that if everybody agrees. I don't see a problem unless—Owen, go ahead.

OWEN FLETCHER: Sure. I'll add something that's hopefully helpful. This is Owen Fletcher from NTIA in the United States. I think it's important to be aware, if we were to ask that, that, just as has been stated, participation and the RDRS is voluntary.

Additionally, I'm not sure what the answer is to this part of it, but there I think is a question about whether, with ccTLDs, there's a technical way for that to happen. I mean, there's obviously a distinction between ccTLDs and gTLDs in a policy sense as well. But as long as we're making clear that it's voluntary and if any ccTLDs are interested in exploring the idea, it seems to me at least that it's a fair question.

NICO CABALLERO: Yeah. Going back to you, India, from a procedural point of view, we can perfectly do that if we all agree if we have consensus.

So having said that, I have Canada next.

UNIDENTIFIED MALE: Thank you, Nico. And thank you to the PSWG for all this work and for being here. And this is great.

And just to my Australian colleague's point about awareness and how important that is, especially at this crucial pilot stage, we recently organized a workshop with our RCMP, our law enforcement agency, with ICANN and Tucows, our registrant and registrar. And I think 50 people came from all across the law enforcement community. It was really, really well received. So there's definitely openness, especially ICANN's side, to come and give a walkthrough of it and make sure that people know about it. And like I said, especially during this pilot phase and we only have a year left, awareness is really, really key, and uptake is key. So I really encourage people to look into similar initiatives if they want to spread the word. Thank you.

GABE ANDREWS: I just want to say thank you for doing that. I didn't stress this before, but I will stress this now. I have found it difficult to do two things at the same time when raising awareness. One is to really encourage my counterparts in law enforcement to use this system and to provide feedback. But two is also to set realistic expectations: because proxy services are turned on most of the time now for modern registrations, and because registrars are currently choosing to respond pointing to their own proxy services, investigators need to know that. Otherwise they might run up against unexpected disappointment.

So there's a balance to the messaging, but we very much appreciate all of the assistance in raising awareness with law enforcement in our other member countries. Thank you.

LAUREEN KAPIN: And I just want to take a pause to reflect some of the strands we've been hearing. One, in this chart, we see that, although there are a lot of requests, there's a small percentage, granted. We're also hearing that there are challenges to people even knowing this system exists. And we've also heard a strand of concerns that even if people get a response, it may be not the response they're looking for—i.e., it may be a privacy proxy response, not the underlying registrant.

And all this is to say that if one were to conclude that there is no demand for WHOIS domain registration data based on this pilot, that would not necessarily be the right conclusion at all. I think what we're hearing is

that there are many challenges to this system, and, really, the pilot was intended to gather data.

So I'm just reflecting that we want to be very careful about the conclusions we reach with regard to this data and keep in mind the many challenges that we're hearing about in terms of awareness, in terms of the ease of ability to use the system, and in terms of whether the system actually can provide what it was originally hoped to provide. So I just want to make sure that these are things that folks keep in mind when we get to the end of the RDRS and the question is asked: "Well, do we actually need domain registration data? Do we need access to that?" That's a very important question.

NICO CABALLERO: Thank you very much for that, Laureen. Any other questions? Yeah, go ahead, please.

[FREDERICO]: Yeah, thank you. I have a question. I am [Frederico] from Belgium. I have also experienced as a user of RDRS, but I would like first to share a question with everyone: Who is ready to give money, and what amount of money, to [be redacted for privacy? Is there one person in the room able and ready to give money that will [be redacted] privacy? So the question is, when you want to trust the domain name and go on websites and receive emails, you want to know who is behind it, and if you cannot, if you don't have basic information, how can you trust?

And I would like to understand, when we are talking about [inaudible] persons, companies, and organizations, what's the reason to put redacted for privacy? I don't see any. I don't ask to have the name of the secretary who published the request and his or her personal phone number. It's not the request. What's the really the [inaudible] person, the company, the organization, basic details? That should be there. Thank you.

GABE ANDREWS: I will say that is a question that really can only be answered by, I think, the registrars. I don't wish to speak on their behalf and so I will, if you allow, dodge.

NICO CABALLERO: So we'll defer the answers to the registrars.

And now regarding the money in the room, I don't know about that either. So thank you anyways for the question.

I have Australia. Please go ahead.

INGRAM NIBLOCK: Sorry, I just have one last quick question, just to confirm: at the end of this trial period the service is just shut down.

GABE ANDREWS: That has yet to be determined. That is one of the big questions, and I want to actually note that despite the challenges that we've gone

through about this RDRS, there are some very strong benefits to it as well. We've been taking away really important learning points about how we could iterate or improve upon an RDRS or take these key learnings and consider how to do a successor system such as the SSAD. But there is a lot of uncertainty as to what will happen at the end of this two-year pilot right now and it will be the community, together with the GNSO, to decide where this goes.

And I will say some of the important work we discussed involves the authentication of law enforcement and enabling us to do this work in a constructive manner. The existence of the RDRS is enabling us to take concrete action right now to test these systems, and I don't know how that work proceeds in an environment absent it. It's yet another open question.

NICO CABALLERO: I don't see any other hand up. Is that an old hand, Australia?

All right, so let's move on. Now I have the pleasure to give the floor to Owen Fletcher from the US, who's going to walk us through accuracy and registration data details. Over to you, Owen.

OWEN FLETCHER: Thank you Nico. Hi, this is Owen. If anyone wants a break, then stretch. This is a new topic in a dense session. Let's see how well I can give a brief summary of where accuracy is right now and some background for it so that we can have productive discussion on what the GAC thinks at this stage.

So we'll start on this slide with some background. At least the first bullet here is about an old GAC comment on this issue. So the expedited policy development process referenced in the first bullet is the one that had all the arrows on the diagram that Laureen showed earlier. Under Phase two there was consideration of domain registration data accuracy issues. The GAC submitted a statement at that time about not supporting the conclusion to defer work on this issue. The GAC comment noted that accuracy should be ensured for data regarding the purpose for which the data is processed. It also noted that inaccurate data disclosure would defeat the purpose of an SSAD, a centralized disclosure system, and would risk violating data protection rules. The GAC since then of course has continued to express interest in the topic of registration data accuracy, including in ICANN80 where our communique referenced the issue and noted the importance of accuracy for purposes such as law enforcement, but others as well.

There's a couple of other background points. There are questions about how accurate existing registration data is. In this 2019 report linked in one of these bullets, the data inaccuracy rate was estimated at 30 to 40% before 2019. Also, I suppose it's important to keep in mind what the definition of accuracy is here. I think we'll get to that later. The importance of accuracy for DNS security, stability and resiliency was also noted in the SSR2 review final report in 2021.

So starting from here and going through further slides, we're getting into more of the details of processes that now we're looking at how to follow up on. So in 2021 the GNSO asked ICANN Org for a brief briefing to inform the launch of a policy-scoping exercise. This is in preparation

for possible policy development work related to the accuracy of registration data.

There are some bullets here about what was involved in that briefing, including assessment of the effects of GDPR and the temporary specification for gTLD registration data which was meant to accomplish account for the effects of GDPR on an interim basis before the new registration data policy was finalized this year under a different phase of the EPDP. The briefing suggested a study on measuring accuracy, which would involve access to some non-public registration data.

Can we go to the next slide? Thanks. So here's some more background on the Accuracy Scoping Team effort and where it is now. The team, the Accuracy Scoping Team, was formed in 2021 to facilitate community understanding of this issue and assist in scoping and defining the issue and to gather support for the request of an issue report.

This then went through a few stages of input from ICANN. Org in the sub bullets there, under the second bullet. There were various possible ways forward suggested to analyze the accuracy of registration data. The scoping team recommended, in September 2022, three things here. They're numbered 1, 2, 3. One of them was a pause of scoping teamwork regarding proposals that would require access to registration data, which is a continuing challenge. There were a couple of other possible ways forward proposed here on this bulleted list as well that you can look at later and click on all the links for to do thorough background research if you'd like.

The GNSO Council though resolved to pause the work of the scoping team, including deferring consideration of the recommendations 1 and 2 above for an initial period of six months, and there have been repeated deferrals of six months since then, including in September 2024. So the bottom line is that the GNSO Accuracy Scoping Team effort is currently paused and has been for a couple of years.

Next slide, please. About a year ago in October 2023, there was an ICANN Org analysis that recommended two new possible ways forward on analyzing registration of data accuracy. Those ideas were analyzing registrar audit data or considering certain ccTLD practices.

There is a little follow-up on that strand of the history on the next slide, but first I'll note that previously there was discussion about whether a data processing specification might allow ICANN Org to obtain access to more registration data so that it could perform analysis of the accuracy of that data. So the draft data processing specification applicable to the registrar accreditation agreement and registry agreement was out for public comment earlier this year, but the ICANN Board has made clear that that specification would not grant ICANN access to non-public registration data in such a way that it would enable wide scale accuracy studies as had been previously proposed. And then the Board stated again (there's a comment down here in the final bullet) that even with the specification in place, that's not a solution to the challenge.

Next slide please. So, many of you will recall from being in this room yesterday that we spoke with the GNSO Council and they addressed this issue. So on the previous slide, I noted two of the recent proposals on

a possible way forward for analyzing data (where the mouse is right there), analyzing registrar audit data or considering ccTLD practices.

Back to the next slide, please. So what we heard from the Council yesterday was they felt that existing those existing proposals would not provide enough data to move accuracy work forward, and the GNSO has developed a set of threshold questions that they've submitted to ICANN Org for input and that they're then going to submit to community members, including the GAC, for feedback to inform possible new ideas for paths forward on this issue.

I'll also note that I believe immediately following this session we have the GAC's bilateral meeting with the Contracted Party House, and I believe accuracy of registration data is on the agenda for that meeting as well. So we may hear about existing contracted party practices and requirements from ICANN Org regarding accuracy requirements in existing contracts.

"So where does that leave us?" is the question? Well, when the GNSO submits or sends out the list of threshold questions for input, the GAC may wish to review them and consider providing feedback while also continuing our engagement to support restarting the work of the Accuracy Scoping Team because that's been a theme of GAC comments in recent years, hoping to see this work restarted.

I think that brings us to where it is now.

NICO CABALLERO: Thank you so much for that, Owen. I do have a question, though. While we wait for the GNSO questions, what would you recommend at this point?

OWEN FLETCHER: Well, I think probably just all of us getting started thinking about this issue again in detail would be helpful. The work of the Accuracy Scoping Team has been paused for a long time, and the GNSO questions provide a clear new initiative that could result in productive ideas for a way forward. So perhaps we just focus on trying to prepare good responses there, unless anybody has come up with a brand new possible solution of their own for allowing access to registration data so it can be analyzed for the purposes of assessing accuracy. But I would be surprised if that were the case.

NICO CABALLERO: Which, by the way, we would be very happy to review and analyze, by all means. I would ask, before I open the floor for questions and comments, the same question to Laureen in your … Sorry to put you on the spot, but I'm going to ask the same question to the four of you. So what would you recommend?

LAUREEN KAPIN: I think we've been presented with a big challenge. I think that we have heard, from different parts of the community, different sets of concerns. So if I were to take the polls, the extreme polls, we had a situation before the GDPR where everything was public, and that created several

challenges, particularly with privacy infringements and all that goes along with it, which would include potential human rights violations.

There are also perspectives that say, “There's no need for accuracy, everything should be anonymous, and, that way, everyone's protected.” And I would say, if you go to those extreme polls, you have a variety of challenges and obstacles that always go with extremes.

So I would say the issue for the GAC is, where can we find this space in the middle where we are taking into account what needs there are for accuracy, what legitimate needs? And we hear the terms security and stability and resiliency a lot, because if you can't get in touch with who's behind a domain name, you have all sorts of technical challenges. And that's separate and apart from the needs to protect the public from crime or notify victims and all the other legitimate reasons.

And then you have also some valid safeguards that need to be in place in certain scenarios where you are concerned about protecting people who want to express their political views or their religious views. There's a certain zone where we're very concerned about safeguards.

I would say that there is potential for those interests to be reconciled and balanced, but we cannot go to these extremes because then not enough legitimate interests will be met. You have to balance the need for public safety and also safeguarding people who need to be protected. So I would say if I were going to issue a challenge to everyone, it would be to think about how to reconcile those interests and to avoid those extremes.

NICO CABALLERO: Thank you so much, Laureen. Gabe, any insights you can share with us?

GABE ANDREWS: I don't recall which communication it was from the GAC, and so my apologies for my lack of historical detail here. But I recall that we did float a possible path forward that would not require access to existing registration data that would still perhaps be able to test the ability of registrars to know whether or not they're accepting accurate versus inaccurate data. And this was something that came about because we all, I think, are in organizations where we sometimes get fake phishing emails sent to us. Right? We can all empathize with this, where our employers will contract with the company to try to send something to us in email format that maybe we click or maybe we're good employees and we identify "Oh, that's risky. And I'm going to take action to prevent that risk."

We were thinking, in past communication from the GAC, could ICANN not do something similar with registration data? Just as our employers contract with a vendor to send these fake phishing emails, could ICANN not establish, in their contracts with registrars, that they are enabled to do select test registrations using non-accurate data so as to enable them to measure to what extent existing practices are capable of preventing those registrations to occur? I think that there is still communication going back and forth with regards to whether that is perceived to be feasible, but I do note it would elegantly bypass the notion of access to existing registration data.

NICO CABALLERO: Thank you so much, Gabe. Melina, would you like to say anything?

MELINA STROUNGIS: Yes, and thank you for the *phone rings* … Okay. I don't know what's happening. The phone rings every time I speak. So no, thank you for the question. I think it's a very interesting and important question.

And, also, as a small remark before trying to explore a solution, I think it's important to remind you of what also Owen stated: that this work has been postponed many, many, many, many times, every six months, also on different grounds, which frankly is a part that creates some worries. For instance, one of these grounds used to be that accuracy work is postponed until the work on finalizing the data protection agreement processing agreements between ICANN and conducted parties is finalized or within six months or whatever is faster, [if you] remember. Then the ICANN Board clarified that there is no dependency between the two. Now we see a different ground by the GNSO, like this question the scoping question circulated. So it makes you wonder a bit, like, okay, we start working, but what if then there's another ground and then another reason to postpone? And then, like, where does it end? And I think we have repeatedly stressed how important it is.

So we need to make sure that any input going forward will be meaningful. As Laureen said, there is need for balance, for sure.

And if I can take a few moments, the GAC hadn't put [on] the European [hat], because you also addressed personally and because the GNSO also in the scoping questions have a question on the impact of NIS2, for example—so the NIS2 separate security directive, which sets down

some accuracy requirements that we anticipate will have ultimately an impact.

I think all these are interesting discussions, and right now what will be really necessary is for the whole community and all the GAC members, of course, to give as much input as they can on these questions raised by the GNSO and also from the national jurisdictions and gather all this input and hope for the best.

NICO CABALLERO: Thank you so much for that, Melina. As a matter of fact, we do have two questions for the full GAC, the first one being (you can see them on your screens), is GAC advice needed on any of these topics? That's the first question. The second one is, which topics should the GAC highlight as issues of importance? Or maybe you consider there are absolutely no questions at all to ask. So again it's for us to decide.

So the floor is open. Looks like the last option. No questions at all is the way forward? I have the European Commission. Please go ahead.

GEMMA CAROLILLO: Thank you, Nico. I think topics (all of them) in one way or another should feed into the issues of importance for different reasons. So the access system has raised the attention of all colleagues. We have the issue of urgent requests, the topic of accuracy. Whether advice is needed, I would not be in a position to say. I would also say let's wait until we have the meeting with the Board because this may also impact on

whether we feel that advice is needed or not, since the advice is directed to them. Thank you.

NICO CABALLERO: Thank you so much, European Commission. Well noted. I have India next.

T. SANTOSH: Thank you, Chair. The topics which we have discussed and deliberated during this session are of utmost importance to every nation who are in this room. And yes, I agree with the European Commission's comments that we will wait for the discussion with the ICANN Board. Thank you.

NICO CABALLERO: Thank you so much for that, India. I agree with you wholeheartedly. So I have Portugal next.

UNIDENTIFIED FEMALE: Thank you. And I will speak in Portuguese. Based on my experience in the GAC, I think that in the meeting with the ICANN Board we are not going to have many news. I think we can wait for everybody to get their headsets. Okay. Have you all put on your headsets? Okay. I was saying that based on my experience at the GAC, whenever we had a meeting with the ICANN Board, at these ICANN public meetings, we never achieve great results. Usually things can be moved forward in between meetings intercessionally. So I think that these are topics that are quite relevant and they should be reflected on the communique.

So what is it that we are going to include there? Well, I must admit that that can be decided after having the meeting with the ICANN Board. But I think that all these topics are highly interesting to us, and they should be on the communique.

NICO CABALLERO: So do you think that that should be a recommendation for the Board?

UNIDENTIFIED FEMALE: Portugal speaking. Yes, I think that it might be part of the advice, and then we can discuss other aspects. But for the time being, I think that that should be considered in our advice because we have been providing ongoing advice, and we still have no clarity on this situation. Therefore, I think that this must be taken into account, and we shouldn't be shy.

NICO CABALLERO: We're online and we need to wrap up the session. So thank you so very much, Owen, Laureen, Melina and Gabe. A big round of applause for them. Thank you so much, everybody. It's always a pleasure to have you here. So the meeting is adjourned. We'll reconvene here at 3:00 PM. Thank you so much.

[END OF TRANSCRIPTION]