ICANN82 | CF – GDS: PPSAI IRT Working Session
Wednesday, March 12, 2025 – 09:00 to 10:00 PST

JESSICA PUCCIO

Hello, and welcome to the ICANN82 Privacy and Proxy Services Accreditation Policy Implementation Review Team Meeting Working Session. Today is Wednesday, the 12th of March, and it is 16:00 UTC. My name is Jessica Puccio, and along with Yvette and Dana, we will be acting as Remote Participation Managers for this session. Please note that this session is being recorded and is governed by the ICANN Expected Standards of Behavior and the ICANN Community Anti-Harassment Policy. To ensure transparency of participation in ICANN's multistakeholder model, we ask that you sign into the Zoom sessions using your full name. Please raise your hand and wait to be called upon. And then, state your name clearly for the record before speaking. And with that, I will hand the floor over to our project owner, Jason Kean.

JASON KEAN

Thank you, Jessica. Welcome, everybody. As Jessica noted, if you could please raise your hand in the session — we have lots of people participating online, especially from the core team, and it would be greatly appreciated. Next slide, please, Jessica. Oh, your screen is only showing a sliver of the PDF at the moment. There we go; perfect. So, just a quick review of the agenda today. We might

have some people joining that aren't part of the group, so we wanted to do a little background after our welcome. We're going to provide an overview of the timeline, the work plan as it exists, and upcoming tasks for the IRT. We're going to introduce the alignment document, which was sent out a little bit earlier last week. And, we're going to be discussing threshold Question 3 Part B. Next slide, please. So, just a quick overview: This IRT is 56 members as of the 4th of March; one GNSO liaison, three stakeholder group representatives — Paul is in the room — and three alternatives have been appointed. ICANN org has an implementation project team. The core team includes myself, Dana, who is on the call, Leon, who is on the call, Karen as well; and we do have an extended team also, which includes compliance and legal. So, that's pretty extensive. And for anyone that's interested that's not familiar with this work, we do have a link here to the wiki, which has a lot more information and other resources that can be accessed. So, with that brief intro, I'm now going to hand it over to the lead analyst for this work, Leon. So, over to you, Leon.

LEON GRUNDMANN

Thanks, Jason. So, if we could go to the next slide. Thank you. I'll talk a little bit about the background here, because I know that we might have people in the room and in the Zoom room who might not be familiar with this implementation, with this policy implementation that we're doing. So, a little bit of background there: The GNSO actually improved the policy recommendations on privacy and proxy services accreditation issues back in 2016. So, according to the final report which was from December 2015, some

goals of the recommendations included clarity, transparency, and consistency in the operation of services. So, it's a very brief overview here; obviously encourage you to take a closer look at the final report if you're interested in this topic. The board adopted those recommendations in 2016. ICANN org worked on the implementation within IRT until 2019, and then paused the work due to overlapping issues being considered in the community around GDPR, data processing, and the temporary specification, and what later became registration data policy. Which, of course, has now come into force, now exists as an actual consensus policy. So, therefore, obviously, we've picked up this effort again as we see that some of those issues have been resolved. So, although GTLD — oh, sorry, I think we lost the presentation there. Just give us a second to come back in. Perfect, thank you. So, although GTLD registration data is no longer public by default, proxy and privacy services still exist, of course, within the ecosystem quite prevalently, and if you joined us in the ICANN81 session, you will have seen some presentations there on current industry practices from players within the industry. So, I think that's an interesting session that I encourage you to take a look at if you're interested in learning more about that.

JASON KEAN Seems we lost Leon for a moment. Let's see if we can get him back. Just bear with us one minute.

YVETTE GUIGNEAUX It seems like he froze for a moment. Leon, can you hear us?

LEON GRUNDMANN Yes, I can hear you. My apologies, I'm not quite sure what happened there.

YVETTE GUIGNEAUX You froze for 30 seconds, so you may want to repeat whatever you were saying.

LEON GRUNDMANN OK. Remind me, what was the last part that you were able to hear? Was it the last bullet, there?

YVETTE GUIGNEAUX Correct. Yes, I think it's the last bullet there. You just kind of froze.

LEON GRUNDMANN OK. So, I had just mentioned that although GTLD registration data is no longer public by default, proxy and privacy services still exist within the ecosystem. They're quite prevalently used, actually, and we had a session at ICANN81. So, anyone who is interested, I encourage you to follow that and learn more about current industry practices when it comes to privacy and proxy services. So, if we can move to the next slide, please. Thank you. So, since July 2024, the privacy and proxy services accreditation issues IRT has been holding bi-weekly meetings. Part of this work has involved clarifying questions and initial discussion on the 21 policy

recommendations from the PPSAI final report, as well as the identification of implementation-related issues regarding the policy recommendations. IRT is currently in the stage of discussing a set of threshold questions to define the major decisions needed to move forward on implementation, including identifying any questions which require escalation to the GNSO Council. The three categories of threshold questions under discussion are shown on the following slide. Thank you very much. So, we see here that the first — oh, sorry, Dana, I think I'm supposed to hand it over to you for this one, is that right?

DANA KUEBLER Yes, we're fine.

LEON GRUNDMANN All right, take it from here.

DANA KUEBLER Yes, as Leon — thank you, Leon, very much — as Leon mentioned, we're addressing threshold questions for GNSO consideration, and they're broken out into three categories. Category 1 is around policy questions that we want to bring to the GNSO for their guidance. Category 2 are around the implementation model or alternative, and if a standalone accreditation program could remain consistent with the policy recommendations. And Category 3, which is our focus today, the disclosure frameworks and if there are specific things that need to be revisited with the recommendations under new law or policy, and/or if the

frameworks can be aligned with existing work. So, that's kind of our primary focus. And if you go to the next slide, the way we've approached the work since the kickoff in Kigali, the IRT has focused on reviewing and addressing comments for clarification and concern on the final report. We've discussed those and escalated priority questions and have begun identifying candidate threshold questions. We're in the — and also, I think Leon mentioned, we also had discussions on industry practices at ICANN81, and highly recommend taking a look at the ICANN81 session. So, where we are now is in Module 2, where we're looking at these specific threshold questions and trying to finalize those candidates so that we can come to a decision point on which way we will then approach the implementation. Next slide. Drilling down into our actual workplan to make this happen. We are on the 12th of March, the highlighted area. Focusing on the frameworks and the introduction of the alignment document on the disclosure framework focus, primarily Category 3, Part B, we intend to have continued discussions on that threshold Question 3, and finalize those identified threshold questions for Category 3 in the next upcoming sessions, and then go into implementation model discussions and identification of those threshold questions. Later on in May, we intend to be drafting the language for the threshold, questions with the target at the end of May, finalizing those threshold questions for GNSO consideration. So that's our target milestone. Next slide. Tasks underway to make this happen — you can see that the March 10th is grayed. We just finished IRT reviewing the progress of the candidate threshold questions that were discussed on the 27th of

February; we sent out something on list, ways we considered to handle them, to consolidate some of these threshold considerations and approach to them. Now, we have two more tasks that we've targeted for the 19th of March. The review of this disclosure framework, the alignment disclosure framework, and we would like the IRT to comment on the questions and assumptions in this document that we're going to introduce today. Additionally, we recognize that additional threshold questions that were related to the assessment document might come up as you read through this alignment document. So, we ask that the IRT note any other Priority 1 or even Priority 2 comments in the assessment document by the 19th so IPT can respond, and we can prepare for our next session. If there's any concerns with that timeline from the IRT, let us know and we can adjust. It looks like Roger has his hand up?

ROGER CARNEY

Thanks, Dana. This is Roger. Yes, I think that it seems like a short turnaround, since everyone will be traveling later this week to get back to that next week, and we're just going to see it today for the first time. So, I would think we would want another week to process that probably. But thank you.

DANA KUEBLER

Understood. We'll make accommodations. Appreciate your feedback and input on that. Yes, it's OK to extend. OK. Thank you so much. We'll make adjustments and send that out shortly. Go ahead and please move to the next slide. Thank you so much. So,

as we talked about the threshold questions, we've been tracking them. And here's a brief overview of the threshold question tracker. We have questions, IDed A through O, and their categories are identified. The highlighted gray ones, H, L, M, N, and O, were questions that we talked about on the 27th. Threshold questions H, L, and O could be aligned with concerns in threshold question B, the accreditation program; and threshold questions M and O were identified, could be combined with threshold question C concerns. So, we will be holding all of the light-colored threshold questions until we've finalized our discussions on priority concerns. Then the IPT will draft or revise language for GNSO consideration. So, I just want to let you know, these will still remain pending for a period of time, until we finish our discussions on the disclosure framework and accreditation program. OK, next slide. I'm going to pass the ball shortly back over to Leon, letting you know that Jason will help… manage the room onsite, if you have your hand up there. And we ask that if you put your hand up in the room here, Jason will lead in identifying who should go next, because that will be helpful. And raising your hand online if you're here is the most helpful. All right, Leon — back to you. Thank you so much. Thanks, Jessica.

LEON GRUNDMANN Thanks, Dana. And noting that, of course, if any hand is raised and any colleagues bring it to my attention, I'm happy to hand the floor to any questions that come up directly. I think we want to make this as interactive of a session as possible. So, as we already looked at those three categories of threshold questions, the first one being about policy questions in general, the second being about the

implementation model — so, accreditation program or an alternative implementation. And the third one being about disclosure frameworks, of course; that's intellectual property and law enforcement disclosure frameworks which were drafted as part of the previous IRT's work. They, of course, already started drafting a privacy proxy accreditation agreement. So, they started with the accreditation program and they had those disclosure frameworks, so this group has already been looking at that, has been looking at those draft frameworks, both on intellectual property and law enforcement. So, we already looked at Question A there which is: Are there any specific areas to revisit under new law or policy? We've already asked team members to flag those within the document, and we've already had more than one session where we've looked at that and discussed that. What we're doing now is we're moving on to Part B, Category 3, which is: Can these frameworks be aligned with existing work on registration, data request service, registration data policy, and other existing procedures, and still remain consistent with the policy recommendations? So, to this effect, we've created a separate document, what we call the alignment document. If we could switch over to that one, please. Thank you, Jessica. I think we might need to zoom in just a little bit on the size there, to make it more readable. How's that? Any responses from the room, can everybody see that?

GABRIEL ANDREWS Looks good, Leon.

LEON GRUNDMANN

Thank you, Gabe. Noting that Gabe is asking if we can get a link to the document in the chat, as well. I know it was shared on list, but it might be handy to have quick access to it. Thank you, Karen. The alignment of disclosure frameworks with existing work or procedures document. The idea here is that this is supposed to aid the group in the analysis of those aforementioned disclosure frameworks, and especially with Category 3, Part B. So, I'll quickly take you through the actual document. So, the table that you're going to see later is going to compare — it compares the processes for requests for disclosure of data in various, I want to say "proposed" in brackets, frameworks and policies. It's based on the EPDP Phase 1 Recommendation 27 registration data policy impact report, also called the Wave 1.5 Report. And this is a report that people who were on registration data policy might be familiar with already. And, yes, as mentioned, it talks about how disclosure of data might work under various frameworks and policies. We've updated it to include an additional column on the right-hand side, to show how requests for disclosure of data currently work within the registration data request service or RDRS. So, as we mentioned threshold question Category B is what we're looking at here. So, although the IRT and IPT have already prepared a draft for threshold question C, so that is to remind those who maybe don't think of things in ABCD threshold question terms, as most of us don't, that is the illustrative disclosure framework in Annex B of the PPSAI final report. Is it actually policy, or is it more akin to implementation, guidance? Or, is it really just a suggestion that the

IRT can throw away if it wants to, even? That's the question that we're asking in this threshold question C. So, this exercise here aims to give further flavor to how requests for the disclosure of privacy proxy data could work on the operational level after the implementation of the PPSAI final report. So, as you'll notice, the first pre-labeled columns, PPSAI IP is disclosure framework for trademark, then PPSAI IP disclosure framework for copyright. Then, we have one for LEA, so law enforcement authorities. All this depended on the response that we, of course, get from the GNSO Council on threshold question C. And Reg, I see that your hand is raised; please go ahead.

REG LEVY

Thank you. Reg Levy, from Tucows. Why are we only considering — and why are we considering it in this way — disclosure framework for three specific types of requesters? I handle requests on a regular basis, and we have at least seven or eight categories for our purposes. I know that the RDRS has at least five. So, what is the thinking behind the focus on these three?

LEON GRUNDMANN

Thanks very much for the question. I think that well, what we've done here is obviously we've based this on the Wave 1.5 Report, and we've tried to leverage as much as possible the existing documents from the previous IRT to see what can be used, what could not be used. The previous IRT, of course, thought about mainly these two categories, so, intellectual property and law enforcement authority. But I think that doesn't preclude us in any

way from thinking further about different categories of requesters when it comes to how this will work on the operational level. Of course, the final report includes intellectual property and law enforcement. There are no other specific requirements from the final report on this, so I do encourage you, if you have any comments or suggestions, of course, on this document to suggest that. And we can look at the possibilities there in terms of implementation. But I don't think anything stops us from, let's say, thinking outside of the box in the comments on this document, and bearing in mind this informs a threshold question. So, in any case, if we want to bring anything to GNSO Council, this is the moment to include that there.

REG LEVY Thank you for that. This is Reg Levy from Tucows again. I just wanted to flag that it seems odd to me to prioritize these specific types of requesters in this work. Thank you.

LEON GRUNDMANN Thank you, Reg. That is well noted. Theo, I believe you're next?

THEO GEURTS Yes, thanks. And this is Theo, for the record. So, I'm going to drone on a little bit on what Reg just mentioned. I mean, if I'm looking at these categories and possible expansion of these categories, that means you have all these different processes you need to watch out for when it comes to disclosing data. And you know, back when we came up with this with this disclosure framework back in the day, I

mean we were sort of coming up with the framework like, “OK, let's have a process for a couple of these requesters.” And then GDPR happened, and then the whole world basically changed on how we do things. I mean, we are dealing with balancing tests, regardless who the requester is, if it's a law enforcement, if it's somebody who works for a trademark company, or whatever, it doesn't really matter who is requesting data, you know, you go through the one and the same process. And that is basically the balancing test which is required by the GDPR; so, you get your basic process there also. And I would find it a little bit worrisome that if we have a whole bunch of these frameworks which might be different from here and there, and that if we're going to deny a request, we're going to have an issue with ICANN Compliance all of a sudden, because we didn't follow Process Number 1 very to the detail, from T to T. So, you know, I'm a little bit worried that we’re going to have a situation where things will be operationally way more complex than it should be. I mean it's already working registrant requests for data — I mean, we've been doing this since the GDPR came out. So that's quite a long time. Thanks.

LEON GRUNDMANN Thank you very much for the comment, Theo. I think that… those comments are actually very interesting, and I think I encourage everyone to add those on list, or as a comment on this document, because, of course, it will be a lot easier for us to take those into account, respond directly and include them in the drafting of threshold questions this way. And I think that some of these issues might indeed become part of threshold questions. I think these are

things that we might need to ask to council to update this policy in order to make it… yes, to adapt to the current framework that we're in, which is, of course, not the same framework that we had when this report was drafted. So, we're trying to take that into account. Another thing that I would mention is currently, there's nothing in the RDRS about privacy proxy services, so that's a gap in that tool that we could address here, that we could really think about how that could work on the operational level. Of course, we're brainstorming here, so we encourage as much input as possible. And obviously, we don't think that the amalgamation of RDRS with the Wave 1.5 Report is, going to be perfect. That's exactly why we're having this conversation, and why we want to raise anything to Council as early as possible before we really start drafting policy change, and avoid having any hiccups or any mistakes further down the line. If we could get back to the introductory text there, just above… I believe we stopped at… yes, exactly. So that's just as I was saying, so, where it says, "nonetheless, ICANN org believes it useful to begin this exercise, to inform the options for implementation of disclosure frameworks in advance, whether they'll be implemented in a way that treats Annex B of the final report as policy, whether IRT has some flexibility in drafting frameworks, or even flexibility to reject some or all of what was proposed in Annex B of the final report." So, I'm not going to go through the actual tables themselves, unless you all think that's useful. That's where we compare the actual requests. I think what we'll do is we'll have a look at the actual questions and

assumptions, to see if there are any discussion points that people have already. Reg, I see that your hand is raised. Please go ahead.

REG LEVY: Thank you. Reg Levy, Tucows. If we're not going to go over the table, I would like to just flag that it is shocking but not surprising — or perhaps surprising but not shocking, I'm never sure which way that goes — that for law enforcement requests, due process is not required. I think it is dangerous for us to write into ICANN policy that we must provide information to law enforcement actors without due process.

LEON GRUNDMANN: Thanks, Reg. And I don't think that we — I'm not trying to be prescriptive here, I think if the discussion goes to the table, we of course should go straight into the table. If we could scroll down, and if you could let me know which row exactly you're referring to? Is that the legal contact rights or the data elements requested?

REG LEVY: Well, so — Reg Levy, from Tucows — there's a row for copyright/trademark information, which is sort of a weird thing to have a row for when we're comparing trademark copyright and law enforcement. But I guess that row would perhaps better be described as the legal proof section that someone would have to provide because it's a copyright registration number and it's a

trademark registration number, that sort of thing. So, that would be where I would have expected it to say "adequate due process."

LEON GRUNDMANN

Thanks, Reg. I think that's well understood. Of course, as mentioned, this came from a previous report, and encouraging people to make direct comments. That means not only on the questions and assumptions, but literally select the text, make the comment, and we're going to take it into account. I think that's a good point. I don't think we need to-

REG LEVY

Selecting the lack of text right now. Thank you.

LEON GRUNDMANN

Yes. That works as well — if you select literally a space and make the comment, then we'll take it into account. Thank you. Gabe?

GABRIEL ANDREWS

Hi, this is Gabriel Andrews, for the record, representing Public Safety Working Group. I just wanted to note that we sometimes use words differently, especially when we contemplate between governmental uses of words and ICANN uses of words, and from my specific training as a law enforcement officer in the United States, just one of the many countries that we're dealing with here, we often use the phrase "due process" synonymously with another legal phrase, of "fundamental fairness." And I note that we do not equate the phrase "due process" to be the same thing as

compulsory legal process, which means like court orders or subpoenas or so forth. And so, I just wanted to see if I can have Reg clarify, when she mentions due process, whether or not she is meaning specifically compulsory legal process from courts and so forth, that would compel a registrar to disclose, or if she's contemplating just the process of fundamental fairness, which I might be familiar with. And just noting that if we can help clarify that early, then it might help prevent misunderstandings down the road.

REG LEVY

Reg Levy from Tucows. Thank you, Gabe. In every case where law enforcement requests information — sorry, I would like to look at you, but the mic isn't conducive to that. I'm not trying to ignore you. In every case where law enforcement requests information, there is a type of process, and it is going to be different in each jurisdiction. So, in some cases a warrant might be required. In some cases, there might be exigency involved. In some cases, a mere request is all that's necessary. I just think that it is, again, very dangerous for us to write into ICANN policy that law enforcement no longer needs to provide due process when requesting information.

GABRIEL ANDREWS

And if I'm using [inaudible] Trying again. There we go. Yes, Gabriel again, for the record. OK, so, just to make sure that I'm understanding properly, you want to make sure that you have the ability to follow the laws of the jurisdiction, to have that process in

place, and that ICANN policy doesn't run counter to the laws of the region. Right? So, would it be appropriate, then, to say that if there was any sort of, you know, ICANN saying disclose that as long as it's caveated, that as long as you're not in contravention of the relevant law that that would satisfy your ask? No? OK, then I'm misunderstanding.

REG LEVY

Yes, no. It's not me who is violating the law that I'm worried about, I'm worried about law enforcement no longer needing to follow the law. That we will be doing away with all types of adequate due process by — sorry, this is Reg Levy from Tucows. I'm so bad at that. That we will be doing away with the current state of affairs for most jurisdictions, because law enforcement will no longer need to even think about whether or not they need to provide due process.

LUC SEUFER

This is Luc, from EuroDNS. We have such a sentence that could help in the [RAA] already. It's in responding to any such reports, the Illegal Activity Report Registrar will not be required to take any action in contravention of applicable law. I think that's the meaning here. No?

REG LEVY

Reg Levy from Tucows. So, right now, Tucows requests that, to disclose data behind a Tucows privacy service, we are provided with a warrant or subpoena from a relevant jurisdiction. We have a couple relevant jurisdictions, so I'm not going to get into that. So,

that means two things: That means that I don't have to respond to a warrant from… Azerbaijan is always my favorite because I like to say it, and I also don't have to respond to a warrantless request from Azerbaijan. The way that this is worded here, it makes it seem like I might have to. Secondarily, it also means that I can choose whether or not to provide, given the circumstances provided to me by law enforcement, that information without a warrant. Most of the time, I choose not to do that because that is the promise that we have made to our customers, and they have requested privacy. Law enforcement is welcome to make an argument, but they can also make that argument to a magistrate and get a warrant, and then I have to give them the data. So, I am trying to make sure that the policy that we're creating doesn't try to get around that, that if right now, you need to get a warrant, in 20 years, when we're done with this, you will still need to get a warrant, and that this policy does not subvert the American due process system or the system in any other country that legally protects citizens from their government.

GABRIEL ANDREWS

I'm just going to continue the conversation just a little bit more, because I think this is important to tease out. But if I'm understanding the requirement, for example, a warrant isn't a requirement that's being placed by the government, but rather by Tucows policy. OK, so that's just important to tease out. To the extent that a balancing test is still being conducted, however — and I know this policy predates the balancing test — but to the extent that there's still the ability for a receiving registrar to conduct a

balancing test, that is a still relevant piece of due process that, completely apart from whether or not the requesting entity goes out and gets a compulsory court order. Yes?

REG LEVY Reg Levy from Tucows. So, that's why I suggest the phrase "adequate due process," because the registrars are going to treat what that might mean differently, and there might be some registrars who are willing to disclose the personal data of their customers to governments without a warrant, but still with some sort of process, right? Because the government has to actually come and ask for it. But I don't want to write a policy at ICANN that allows you to conduct a warrant-less search.

LEON GRUNDMANN Thanks for raising those points. I think, as mentioned, I would, of course, point people in the direction of the of the RAA, where we have Section 3.7.2 — "registrar shall abide by applicable laws and governmental regulations," which is pretty clear. I think that's what should apply.

REG LEVY This is Reg Levy. It's not my compliance with law that I'm concerned about, it is the compliance with law of law enforcement, that we are going to be giving them a blank check to no longer have to comply with local due process laws.

GABRIEL ANDREWS

Hi, this is Gabriel again. That's — I think I'm still feeling to connect there, because I think the law enforcement, when they make a request, it's not in contravention of law. And when we talk — at least in the U.S. I can only speak to the law I'm familiar with, which is the U.S. jurisdiction — there is no requirement for a search warrant to request registration data within U.S. law. It would be absolutely different if I were requesting content of communication, for example, that would be a type of category of data that absolutely would require me to go before a judge and present facts, and swear an oath that those facts are correct to my understanding, etcetera. So, there are increasingly high standards for obtaining those sorts of privacy-invasive investigative tools, but… at least in my experience in the U.S., they don't apply to this category data that we're talking about. But I think we can have productive conversations more offline; I don't want to monopolize the microphone here. I think this is a very important topic, and I'm happy to collaborate more. And yes, so I'll just end it there.

LEON GRUNDMANN

Thank you for the discussion. It's well noted. And please, again, we encourage everybody to leave comments and we will respond and take those into account for the implementation. Farzaneh, I see that your hand is raised.

FARZANEH BADIEI

Hi, just quickly because Gabriel said that we should move on. But I just wanted to say that not all — if you're providing, you are kind of facilitating access and you're doing policy for all law enforcement

around the world, and not all law enforcement is equal, and, you know, there are some law enforcement that violate human rights on a daily basis. So, just saying that they should comply with their applicable law is not going to… is not going to prevent those human rights implications. So, I don't know what the solution is, I just wanted to support whatever Reg said and put that on the record.

LEON GRUNDMANN

Thank you. Thank you for this contribution. And I see that at least one comment from Reg has already come in, so, thank you for that. And again, if anybody wants to respond or raise other comments, then please do so on the document; that is the best way for that to be heard. I think we can move on to the next point, which, unless people want to, of course, flag something from the table directly, I think we can take a look at the questions and discussions — sorry, questions and assumptions for discussion. So, if we could scroll down to the second part of this document. So, I believe that's Section 3.1? Yes, that's right. So, we've started by, well, the most important assumptions here, what do we mean by the term alignment, which is of course the title of this document as well. So, the question is, well, what should be aligned to what? So, our assumption there — and, of course, happy to edit that, or to change that in any way — but the assumption is that we need to align our implementation of the disclosure frameworks, not only with the PPSAI final report, but also with current law, with existing policy, industry practice, as well as with systems such as the Registration Data Request Service, a program which the original PDP working

group was not aware of as it post-dates this working group. So, does anything in the PPSAI final report actually prevent us from implementing that? And does it prevent us on the operational level, as well? If yes, then that should be a threshold question. And again, please feel free to raise your hands at any point, interrupt me here, but I'll go through the whole ABC of those alignment — oh, John, you have your hand up. Please go ahead.

JOHN MCELWAIN

Thanks, John McElwain, for the record. I was just kind of diving into this admittedly on the fly and looking at the PPSAI final report, but I think to answer, is there anything in the final report preventing us from doing the A assumption is no. I mean the — and I now also see why the trademark and copyright and LEA were part of the listed-out disclosure frameworks, because they are actually recommendations in the final report — and Annex B is... you know, it doesn't say it is a recommendation, but it is referenced in recommendations, and it is an example of the requirement in the recommendation to have a disclosure framework, but it does contemplate, at the time, being reviewed in years, and I think we are years down the road. So, I do think that that 1A allows… the assumption is that we can do exactly what you're looking at — making some revisions to. It needs to be in compliance with the recommendations, but to update it to current law, existing practice and new things like the RDRS. Thanks.

LEON GRUNDMANN Thank you, John. That is well noted. Roger?

ROGER CARNEY Thanks, this is Roger. And I completely agree with what John just said. I don't think anything in the report precludes us from not doing this. But I do question the reference to RDRS as it's… a nonofficial — I mean, it's a pilot, we don't know where it's going. So, I don't know if we align with that or not. But I would say, definitely, we have to align with what is consensus policy today, and that the registration date of policy does have a disclosure framework. So, I think whatever we do, we have to align with that because it is consensus policy. The RDRS is not. It's just… it's just a trial program. So, I think that that is important. Thanks.

LEON GRUNDMANN Thank you. Thank you, Roger, and I think that just a quick note there, of course you could read that in a sort of order of importance. Current law, of course, always applies. Existing policy, as you mentioned, we, of course, need to be consistent, and everybody needs to be in compliance with existing policy. We take industry practice into account as well, and systems such as RDRS, that that makes sense for us to see, does it work with this system? Does this work with that system? So, this document is quite, I would say it's quite operational, because it's what the system might look like further down the line. But we'd like to frontload those questions. Of course, if we need to ask Council about any of those questions, I think now is the moment to do so. So, we like to inform those discussions, of course, that those will go on for a long time through

	the actual implementation process itself. Gabe, I see your hand is up as well.
GABRIEL ANDREWS	Hi. Yes, Gabriel Andrews, and noting my agreement with Leon, that yes, the RDRS at present is very much a practical consideration, but perhaps, if it would be agreeable to Roger, you could rephrase as "RDRS, SSAD, and/or successor systems" to be more inclusive of those systems that do have policy associated with them. But yes.
LEON GRUNDMANN	Thanks. OK.
ROGER CARNEY	By the way, that was me nodding my head at Gabe. Sorry about that.
LEON GRUNDMANN	OK. That's noted for the record, as well. I think that. Yes, we're just noting here that obviously the board has indicated it wants to continue to explore RDRS, building off this. So, we're including it here. I think it makes sense to see how, if and how PPSAI needs to be implemented to fit with all those requirements. Roger, your hand is still up. Is it an old hand or new hand?
ROGER CARNEY	Sorry, old.

LEON GRUNDMANN

OK, no worries. We'll move on to — and noting a comment from Karen in the chat, suggested edit from Gabe, makes sense. I think that's an update that we can make to the language. Point B, there, assumption B, this group will have some level of flexibility to align some of the disclosure processes for consistency with existing tools and processes. Ah, Theo, I see your hand is up; please go ahead.

THEO GEURTS

Yes, thanks. So, while going through these assumptions and sort of triggering a flashback from the past on why we started all this work, and what sort of is running through my head at the moment — why are we doing this? I mean back then, when we started to work on this, when we started the working group on this PPSAI, there was an increase in privacy proxy services. So, it made sense back in the day, like, OK, if there's an increase in all these privacy proxy services, doing stuff very different and Registrar A and Registrar B does another process, you know, it made sense for me back then, to come up with this process to make a sort of a uniform process for all those privacy proxy services. But now, I am struggling with the reality of all these data protection laws, and where we have data redacted either way by a privacy proxy service or just redacted for privacy on these RDEP services. And I'm really sort of struggling with the fact or the question here, what are we gonna get out of this, which is already not covered by the current processes in other policies, and or are sort of embedded into reality where registrars are dealing with all these request stores all the time. And you know,

maybe it's just me, and that I don't see the bigger problem here or the bigger scope, but to me, it seems we are doing OK. Sure, law enforcement would love to have more access to the data. And I'm sure the IPC/BC and all the others would also love to do that, but from the basic point of view we are now dealing with GDPR since 2018, it's now 2025 — what is this policy still going to improve process-wise? Because it feels to me like just as the [fake WHOIS] policy, which has been dead in the water also, it seems like we need to come up with a process to sort of come up with all these IRT's working groups, policy reports that are sort of in limbo, and we can't just shut them down for some bizarre reason at the GNSO Council level. So yes, I know that's a lot to unpack there, but I just wanted to ask it. Thanks.

LEON GRUNDMANN Thanks, Theo, and I see similar comment from Reg. That's certainly well noted. Paul, I see that your hand was up as well.

PAUL MCGRADY Thanks, Paul McGrady here as your GNSO Council liaison. So, we're here because the board has passed, you know, resolutions, and has instructed staff to implement this. And you know we did spend quite a bit of time early on in this process, expressing the frustration that Theo's expressing, but at the end of the day, you know, this, neither staff nor this IRT are the board, and have the ability to override the board's decision in this. So, I want to make sure that we all say, yes, we might be frustrated with what the ultimate outcomes here may be, and that yes, the universe has

moved on in the meantime, but I don't want to see us get bogged down with substituting our judgment for the board. That's a total nonstarter, if, you know — and if you believe that this is work that fundamentally needs a new PDP, there is a process for that. I encourage you to reach out to the GNSO councilor that represents you. Any GNSO councilor can ask for an issues report, and then the GNSO Council can decide whether or not that new PDP is necessary. But this is neither the Council nor the board. So, if again, I just want to… you know, plus-one frustration, but at the at the same time try to level-set here about what's realistic about what this IRT can do, and that's not supplant the board. Thanks.

LEON GRUNDMANN Thank you, Paul. That's a very good point raised there by our GNSO Council liaison. I would also like to reiterate the point that, of course, we're not here to second-guess the board, but what we're doing is we can raise certain questions to GNSO Council, and that's the point of this threshold question process, which this document is a part of. So, we encourage everyone to contribute to those threshold questions, because that's going to help us to understand the implementation approach that we then have as an IRT. Gabe, I believe your hand was next.

GABRIEL ANDREWS Yes. Hi, this is Gabriel Andrews, for the record again. And it is an interesting question. Your participation predates my own, but I note that some of the trends that you noticed are still occurring today. You spoke about the rise of proxy services, and despite the

advent of GDPR and the general understanding that private data will be redacted, there still are proxy services in play in increasing frequency. I think the limit is 100%, right, but we get ever closer to the limit. And while some ccTLDs, even at this ICANN, have expressed their new policies where they are banning the use of proxies as a result that is not yet the case in the gTLD space they still exist, and there still is sort of a… fundamental difference in terms of what policies that ICANN creates can apply to registrars versus can apply to those proxy services. And as long as there is a difference there, there still is potential relevance to the discussion, then, of what happens if those proxies were accredited, and I don't know that that's gone away. So, I still feel these conversations can be quite relevant, even in that environment. But that's just my two cents.

LEON GRUNDMANN Thank you, Gabe. I think that's a very good point. Well taken as well. Volker, I believe you're next.

VOLKER GREIMANN Yes, thank you. Volker Greimann, for the record. I mean for me, alignment means basically alignment with existing policies, but that already exists in the other disclosure scenario that we have. We have two disclosure scenarios currently within ICANN. The one is the one that applies to registries and registrars alike, and the other one is the one that would then apply to PPSAI, and I don't see how or why PPSAI would need a different disclosure framework than that which exists for registries and registrars. The only

question now is, how to enforce that on PPSAI providers. And I think that should probably be our main concern for this work. For affiliated PPSAI providers, I don't think that is a question that needs too deep of a dig as well, because if there are providers that are affiliated with registrars, then obviously, they can be enforced through RAA and policy changes. So basically, saying that privacy proxy service providers operated or owned by or co-owned by registrars, must follow the same disclosure process than that of registrars and registries. I think that's probably a non-issue to do that in some form or shape. And the other one is the unaffiliated ones, and for us as registrars at least, ultimately these are the registrars, the registrants, and therefore our contractual partners, because we don't know who's under there, and therefore, any third party can also treat them as the registrant. And if they don't disclose, they will have full liability for everything that happens with the domain, and that they support and refuse to disclose for, and therefore they can be held liable and taken to court.

LEON GRUNDMANN Thank you, Volker, that's another good point, well taken. Gabe, is that a new hand, an old hand?

GABRIEL ANDREWS Sorry, very old.

LEON GRUNDMANN No problem. Roger, I believe you're next.

ROGER CARNEY

Thanks. This is Roger. Just a clarity from Paul, I suppose, because I think Leon kind of touched on it right after Paul said something. But the purpose that we're here right now is to inform Council and Council will make a decision on if we continue working, or, if they're going to try to reach out to the board, or, looking at doing something different. That's the reason why we're here now. We're not here to create the framework, we're here to talk about should we continue our work. Is that right, Paul? No, OK. Sorry. Can you explain why we're here, then?

PAUL MCGRADY

You're here to assist staff in the implementation of the board's resolution, this. Right? This group has said that there are some initial questions that they would like for Council to weigh in on. After those initial questions are answered, then this group will get down to the hard work of actually implementing what the board has voted into it, right? This group can send whatever it wants to the Council, but I made it pretty clear that if the questions don't have to do with intervening changes since this was passed, that had to do with changes to law or internal ICANN policy or technology that has fundamentally shifted, then I will be passing along my editorial comments with those to the Council. Right? And so, I understand Theo's frustration, but it's not an overarching — the kinds of questions the Council needs are, you know, is this a dumb policy and should the board have already withdrawn it. Right? That's not a question the Council can answer, because the Council

can't override the board either. Right? The Council is not the board, right? And so, at the end of the day, if somebody around the table thinks this is a dumb policy, and the board should have already withdrawn it, then I encourage you to go to your GNSO councilor through the process that I just mentioned, right? But ultimately, no, it's this is not to… just sort of be a freeform group that asks, you know, whatever question it wants, it needs to give us some focus questions that the Council can hopefully weigh in on so that you guys can get to work. Does that make sense? This is plenary. This is prologue.

ROGER CARNEY

Yeah, no, no, thanks for that, Paul. And maybe I just said it wrong. What we're trying to do is answer these threshold questions. That's our objective, to your point. That is part of what the IRT's work is. It's a requirement that if there's — in any IRT, not this one — if there's any issues that cannot be, a recommendation cannot be implemented for whatever reason, that has to go back to the Council. And that's what we're doing here. These threshold questions basically are saying, are there any recommendations we can't do? Now, some people don't like them, like you said; that's not the that's not the issue, because that's already been solved. But if there's reasons we can't, because of a new law or whatever it is, that's what we're trying to answer now. Right? I mean, that's what the threshold questions are. OK, good.

PAUL MCGRADY So, if you could answer the questions yourself, then they don't need to be threshold questions to be sent back to the GNSO Council. So, you're not trying to answer these questions. You're trying to identify the questions that this group can't answer on their own. Right?

ROGER CARNEY Fair, fair; thanks, thanks, Paul.

LEON GRUNDMANN Thank you. Thanks for that clarification.

ROGER CARNEY Thank you. And just a couple of other things. Maybe this is a question to Gabe, as I know that he's working on a process for Public Safety Working Group to authenticate their users, requesters, however you want to say it.

GABRIEL ANDREWS Yes, authenticate law enforcement requests.

ROGER CARNEY Yes, OK. And then, I'm wondering if we shouldn't call that out in our document, that we know that that's an ongoing process. As this item is talking about current processes, I don't know if we should call that out specifically or not. I don't know. To me, it seems

helpful because it is one of the steps of the process. But that's OK. Something to think about.

LEON GRUNDMANN I'm just-

ROGER CARNEY Yes, go ahead.

LEON GRUNDMANN I'm sorry. No, I'm just jumping in for a time-check. We have three minutes left and two hands raised, so I would encourage you to place those comments and sort of maybe ask Gabe directly, and then, if we can have that discussion within the document then it will be well-captured and responded to, as well.

ROGER CARNEY Perfect. Thanks again.

LEON GRUNDMANN Thank you. Luc, OK, I see you wrote in the chat…

LUC SEUFER Yes, I put it in the chat, but do you want me to do it? So, it's Luc from-

LEON GRUNDMANN I think we had Alan first, but then we'll move over. Alan?

ALAN GREENBERG Thank you; I'll be very quick. If we're indeed here to implement a policy because the board said so, even if we think the policy doesn't make any sense under today's context, then I'm in the wrong place. I have enough things to do in my life to not simply follow due process if it doesn't make any sense, and improve our overall ecosystem. So, I hope our first task is, if we do not believe or if we have some questions related to whether it makes sense or not that we get those answers, you know… Otherwise, we're automatons who are simply wasting our time just because someone said so, and that's not why I volunteer in ICANN. And by the way, not all of us have our representative on the GNSO Council. So. Just be careful what you're saying. Thank you.

LEON GRUNDMANN Thanks, Alan. And again, I would again reiterate that that's why we have a threshold question process raise those things to Council.

JASON KEAN Really quickly, Paul wants to respond.

LEON GRUNDMANN Ah, yes. Please go ahead.

PAUL MCGRADY: So, Alan, I appreciate your frustration; I've known you forever, and you're a good guy, and you're coming at it from the right place, but we have to be really careful that every single time something ends up within IRT, that we don't build in a circular process where the IRT says "I don't agree with what the board did, and so we're going to send it back to Council." And as far as the ALAC's representation on the GNSO Council, I don't know how to help you with that. It just is what it is and you are not — you don't have to be in ALAC for life. You can come on over to the dark side. Thanks.

ALAN GREENBERG: Just to be clear, I'm not saying we disagree with policy, but if we believe the policy doesn't make sense, we have to at least tell the board that and give them an opportunity. That's all I was saying.

LEON GRUNDMANN: Sorry, I believe we lost audio.

YVETTE GUIGNEAUX: Yes, I think we've lost audio here in the Zoom room.

JASON KEAN: OK, but the conversation did wrap up nicely, right on time.

YVETTE GUIGNEAUX: There we go.

JASON KEAN So, it worked out really well; thank you both for that. So, are we back on, Leon? Can you hear us?

LEON GRUNDMANN Yes, yes, I can hear you.

JASON KEAN Great. If you could just wrap it up, that would be spectacular. Thank you.

LEON GRUNDMANN Yes. I think that… Yes, let's wrap it up here, because I know there are still comments. But we encourage, of course, people to leave those on the documents I'd like to mention. We still have the disclosure frameworks document open for 3B comments, but what we would encourage you to do is to comment directly on the alignment document. I think that's where we're going to have the current conversation. So, if you leave comments on there, we will take those into account, and they will be well logged and responded to in due time. So, with that, I'd like to thank everyone for taking part in this session, and looking forward to hearing and seeing from everybody. Thank you.

JASON KEAN Thank you, Leon, and noting that we will adjust the timeline based off of the request received earlier. So, be on the lookout for that. Thank you.

LEON GRUNDMANN And I believe we can stop the recording there as well. Thank you.

[END OF TRANSCRIPTION]