

JOHANNESBURG – Cross-Community Discussion on Next-Generation gTLD Registration Directory Services (RDS) Policy Requirements

Monday, June 26, 2017 – 15:15 to 18:30 JNB

ICANN59 | Johannesburg, South Africa

CHUCK GOMES:

Just before we start, if you do have a laptop computer of some sort or other device that you'd like to log into Adobe Connect, the Adobe Connect link is on the meeting Web page for this meeting. And we will be watching the -- you raise your hands. That's the most efficient way to get into the queue. There will be lots of opportunities for input, so encourage you to do that.

I won't stand for the whole meeting, but I hate sitting down low and not looking at this great audience.

Thanks for coming. My name is Chuck Gomes. I'm the chair of the RDS PDP working group. And this cross-community session was requested to allow us to test some of the things we've tentatively decided with all of you. So it's going to be very important that you're ready to participate.

Now, because of the large number of people, we'll ask you to be brief but we're going to want your feedback on some things that we have accomplished so far.

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The first step -- and I think -- can you hear me? Anybody not hear me okay if I stand here? You cannot hear me? Oh, you can hear me. Good, good. All right, good. Then I will stand. I much prefer looking at you rather than being down low. I'm short enough as it is.

The first thing we're going to do is just give you a real brief update of what we've done and where we're at. We want to focus most of our time on interaction with you today.

So if we can go to the next slide, get past the intro slide. And while they're doing that, up here at the table I'll start on my right. Marika Konings, I think everybody knows. And Lisa Phifer, two of the great staff support people. And in front of me here -- and he's sitting out in the audience for a reason -- Amr is going to be handling remote questions and comments so that I can see him and he can get my attention really easy. He's sitting right out here. So we have a great staff support team.

Susan Kawaguchi is here on my left, one of our vice chairs. Michele Neylon, who all of you know that great personality, Michele, right? We all enjoy him.

[ Laughter ]

I couldn't resist, Michele.

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And David Cake, the three co-chairs of the working group.

We are going to have some of our working group members who are distributed in the audience today sharing in some of the presenting part of it later on. And, hopefully, they're sitting at places where there's a mic so that you can hear them.

Notice also we have one, two, three -- what, four -- five -- yeah, four roving mics. Hold those signs up high. They will watch for you so that those of you who are not sitting at a mic, later on when we're having -- asking for your input, just raise your hand and one of them will bring you a mic. So it looks like we have five -- a total of five mics. That's fantastic.

Okay. I don't want to spend too much time on this slide. This is our outline for today. I'm doing an introduction right now. Then we're going to start the discussion. And the discussion is going to be broken up into segments that are described on the screens there, and we'll get into that as we go. I don't think there's a lot of value in reading through that.

Let's go to Slide 3, please. And the first -- so -- next slide, Slide 4.

Okay. I think most of you know this, but there are probably some who don't so I will go over this briefly. We've been tasked with defining the purpose of collecting, maintaining, and

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providing access to gTLD registration data and considering safeguards for protecting that data.

The charter organizes our work into three phases. During phase 1, we're supposed to examine all requirements for gTLD registration data and directory services at a high level. Only if we make the recommendation that a new system is needed to replace the existing system of WHOIS would we then move on to phases 2 and 3.

And phase 2 is actually to develop the policies to fulfill those requirements, and phase 3 would be to develop a detailed implementation plan for fulfilling those.

And so we're a ways off from phases 2 and 3. Phase 1 will lay the foundation for that work. And phases 2 and 3 might actually be -- may operate concurrently according to the plan that's been developed. So you can see where we are at the bottom of the slide there, phase 1, policy requirements, okay?

Let's go to the next slide. We are tasked with trying to reach consensus on the questions you see on this slide. You can see that the fundamental question is -- or the main question is: What are the fundamental requirements for gTLD registration data? And we're supposed to consider users and purposes and associated access, accuracy, data element, and policy

requirements. That was supposed to be "data elements" there, okay?

Is a new policy -- here's the key question. We haven't answered this yet. We're hoping to start just to give you a little bit of where we're headed, a little bit of a picture of where we're hoping to head -- to answer this fundamental question hopefully by the meeting in Abu Dhabi at the end of October, beginning of November. And that question is in the middle of this slide: Is a new policy framework and next-generation RDS needed to address the requirements that we're developing?

If yes, then what are those requirements that must be met to fulfill that new system? If no, what would we need to do to the existing WHOIS system to meet the requirements?

Now, I always find myself adding a little comment when we're talking about this because I know there are many of you out there in the audience that think, "Well, isn't that kind of a ridiculous question? Don't we all know that we need a system to replace WHOIS?"

We're not assuming that, okay?

Many of us believe that it's an already-answered question, but we will first develop the requirements for the first five questions

in our charter before we actually come up with a recommended answer from the working group.

Next slide, please.

So here you see the top five boxes are the five -- first five questions of Phase 1 in our charter. The areas of users and purposes, registration data elements, privacy, gated access, and registration data accuracy.

And we've spent quite a bit of time on all five of those areas so far except for data accuracy. That has been brought up but we haven't actually deliberated on data accuracy later.

And again, at the bottom you'll see our work in developing requirements for those top five questions will provide the basis for answering that question at the bottom of the slide.

Next slide, please.

This will give you a little bit of it. Don't worry too much about the detailed numbers. They correlate to our detailed work plan, and that is -- that is available on our workgroup wiki, but we -- you can see what we did in October. The abbreviations, hopefully you can make sense. They're up in the top right there, if you want to see the abbreviations.

So in October, we did a first pass on users and purposes, data elements, and privacy.

And in May of this year, we got into gated access for the first time in any detail.

And you can see in July and August of this year, we're planning to further work on gated access and then get into data accuracy.

The work we're doing, because it's so interdependent, is -- we're not finalizing any conclusions that we reach until later in the process. That's why we call them "tentative conclusions," and the things we're going to be looking at today will be called that. Some agreements that we've reached that at least reached rough consensus on -- on those. Doesn't mean unanimous, but strong enough support that we can move on.

Some of those will be revisited later, as we run into dependencies in other requirements that we develop. So we talk about our work being iterative. We're going through and reaching some conclusions, and then we may come back and revisit some of those things later.

Again, like I indicated, our hope is, by the ICANN 60 meeting in Abu Dhabi, to at least start work on a first initial report -- and we're planning two initial reports in Phase 1, which is a little bit different than some PDPs, but our target -- we're hoping we can

meet it -- will be to start preparation of that first initial report and ultimately answering that fundamental question by then.

Next slide, please.

Okay. So today, we want -- like I already said, we want your input.

Now, again, because of the large number of people and the interest in this topic, we would appreciate it if you would be brief so as many people as possible can share their input.

We will be taking that input as a working group, and first -- our first consideration of it will be in our public face-to-face working group meeting this coming Wednesday.

And then of course we won't get it all considered there, but we will start the process of doing that, and we'll be considering it over the weeks ahead.

So this is your opportunity to provide us input.

What you're going to be seeing are some initial key concepts that we've reached tentative agreement on, with a strong enough level of support and minimal objections in the working group. There will be some that disagree with the conclusions still. That's okay. We're going to have that throughout.



So we're going to be looking at initial key concepts -- I'm on the last bullet here -- on users and purposes, data elements, privacy, and access to gTLD registration data. Specifically -- now, please understand this restriction -- we're going to be looking at registration data that we are now calling -- excuse me -- the minimum public data set.

Now, for the old-timers in the room, we've used the term "thin data" versus "thick data," okay? And -- and we'll be looking at --

So we're moving away from that term because we've found -- and one of our working group members pointed out -- that the term "thin data" in contractual agreements for registries and registrars sometimes has a little bit different meaning.

So we're calling it "minimum public data set" and we will show you which elements that involves right now.

We're not done defining minimum data -- public data set -- okay? -- but we have agreed on those terms that have traditionally been called "thin data" so far.

Okay. Let's go to the next slide.

Sure. Go ahead.

MICHELE NEYLON:                    Sorry. It's Michele for the record, just interrupting Chuck briefly. There appears to be an issue with people getting into the Adobe Connect. ICANN technical staff are working on it and we'll hopefully have it addressed shortly. Thanks.

CHUCK GOMES:                    Okay. Thank you, Michele, for pointing that out, and apologize for the technical problems.

So our second agenda item is to discuss a couple of the 26 tentative conclusions, key concepts that we've reached so far.

And we've asked a couple of our -- excuse me -- a couple of our working group members who have been with the working group for the whole time to share those, and I'm looking -- okay. Jim's -- okay. Jim and Rod over here. I'll let you guys introduce yourself just real briefly so that they know where you're from and -- but they are active members of the working group and we're going to ask them, if we can move to the next slide, and I'll let you guys take it from there.

JIM GALVIN:                        So thank you, Chuck.

Yes, next slide, please. So I'm Jim Galvin from Afilias. I'm also vice chair of SSAC, but in this particular space, I'm just representing the registry group, not SSAC, for this discussion.

So as Chuck said, our first set of objectives here is about talking about key requirements for a new RDS if one was to exist, and we've been spending a lot of time examining particular requirements, and one of those, of course, is: What is the purpose of registration data? But you'll see up here a particular formulation of that question, which is, "What should the overarching purpose be of collecting, maintaining, and providing access to gTLD registration data?"

Now, there are two important things that you need to -- I would like you to observe about that question as we go forward.

One is the fact that the question talks about three different contexts for the purpose of registration data, and that is the collecting, maintaining, and providing -- and providing access, okay? Those are actually three different things, and the working group does talk about the purpose of data in the context of each of those things at different times. And you'll see that represented in -- when we get to our various formulations of purpose.

The other thing to keep in mind when talking about the purpose of data is there is a distinction to be drawn between the purpose of the data with respect to the RDS as a whole and the purpose of the data with respect to the individual elements that are displayed when it's published.

And those are also two separate issues that the working group has spent a great deal of time talking about, and you'll see some of that in the next slide, please.

So what we have on this next slide is four different formulations that the working group currently has some level of consensus, tentative consensus, about that could answer that question.

So the first one up there -- and I will read it out -- is, "A purpose of gTLD registration data is to provide information about the life cycle of a domain name and its resolution on the Internet."

This particular formulation has the characteristic of being focused on operational requirements. It's really about the reason why the data is collected and it exists in that context and you need it. If you're going to have a domain name, it makes sense to have a certain set of information, the domain name goes to certain events, and so that's what this formulation is intended to represent.

But we do have some other potential formulations that are similar, a little bit different, and I will now turn it over to my colleague, Rod Rasmussen, to speak about the rest.

ROD RASMUSSEN:

Thank you, Jim. I'm Rod Rasmussen. I recently ran a cybersecurity company. I'm largely retired at the moment, so -- but I am a member of SSAC as well, but here in my retired capacity, as it were.

Anyways, the -- the other three topic areas here are, again, similar, as Jim mentioned, but have some subtleties in -- or a bit of an exposition as to that first primary position there.

And these get into disseminating the data for various uses, and the first one, in particular, is to associate -- you know, create data of record that can associate domains to their components needed to facilitate operations and maintain legal ownership and things like that. Obviously, all of this is in accordance with other policies. This is all interactive with other things that come on, but this is the core nut of why we've got these various purposes listed out in this format.

Then related, but different, you have the purpose is to identify contacts to facilitate various communications, and this could be

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for multiple different use cases' purposes, but the idea here is to capture that all into one overarching concept.

And then finally, we have an ongoing record, if you will, quasi-equivalent to a public registration record that you have for other -- in other areas, where you have that for various reasons for wanting to track, over time, what has happened and who has had control of a domain name for a specific period.

These are all, again, tied to the life cycle of a domain name and they're just various aspects of a domain name's existence, whether it's needing to get the right name servers published -- or the domain published by the right name servers or facilitate some sort of technical communications thing or handle some sort of legal dispute over ownership of domains. Those are all part of what happens to some domains at some point in time, and so these all try to -- these purposes boil that down to try and consolidate that into rather pithy and easily understood -- hopefully -- points.

Thanks.

Oh, next slide.

CHUCK GOMES: Yeah, we can go to the next slide but I'm going to, in a moment, go back to that one, because I think it will help the audience if we're focusing on that main slide while we're having discussion.

You can see that our next action item in this meeting is to open it up for discussion, so I'm going to ask now if we can go back to that previous slide so that you have the two -- the four specific purposes that we've reached tentative agreement on so far and see if you have any questions or comments.

And before we do that, could I ask all of the working group members in the room to raise your hands?

Okay. You can see that they're distributed throughout the audience.

They're welcome to speak too, but I would like to ask you, as working group members, to, as much as possible, defer to people who are not part of the working group, because we have opportunity to deliberate among ourselves. That doesn't mean you shouldn't talk. You should. But just be brief so that we can give plenty of opportunity for the rest of the group to participate in this discussion.

So now, with that slide in front of you, let me ask if anyone in the room would like to comment or ask a question about these four specific purposes.

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Okay. Let's start with Number 2.

STEVE CROCKER:

Thank you very much. I'm Steve Crocker. I'm chair of the board of ICANN. I'll step to the center here for ease.

The history of this, of course, goes back quite a long time. There were prior attempts to sort out the WHOIS situation. The board stepped in and commissioned an expert working group report -- five years ago? Four and a half years ago? Something like that. And out of that came a very substantial piece of work, not necessarily one that was perfect but quite a substantial piece of work. I see people facing me sitting next to you who were part of that effort.

And then we -- we did what we're required to do, which we said, "Here is a board request, sort of an issues-initiated policy development process," and handed it to the GNSO. I think that's a fair simple statement of the thing.

So I have a couple of questions which relate -- which I'll pose in the form of confusion, from where I'm sitting.

First confusion: I would have thought that the question of "is it needed" has been answered without any equivocation, without any question, and I'm puzzled about the amount of time taken



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to take it as a fresh question and not get on to the substantive part of designing the system.

Now, I'll say quickly that the work of the expert working group attempted to go even further, and for that, I think it's very fair to go and revisit their thoughts and take that as fresh, but to the first question of "is it required," I'm puzzled as to how that can be an open question. So that's one.

CHUCK GOMES: Steve?

STEVE CROCKER: Yeah.

CHUCK GOMES: Do you mind if I respond to that one before you go to your second one or are they interconnected?

STEVE CROCKER: Your choice. That's fine.

CHUCK GOMES: Okay. The -- you'll recall, if you think back -- and I know it's -- this has all been happening over a lot of time --

STEVE CROCKER:            Yeah.

CHUCK GOMES:            -- we started our work a year and a half ago, and before that, after the expert working group, there was a framework established for taking the expert working group information and then -- a framework that was then translated into a charter.

And the people who did that -- and some of them are in the room today -- actually set it up this way.

So, again, you're addressing why I raised the issue. It seems kind of ridiculous to even ask the question for some of us, okay?

But that is -- we're literally following that framework that was put into a charter in doing that. Whether that was the best thing to do or not, we could debate it, but a lot of smart people set that up that way, so that's where that came from.

Now, again, that framework was set up -- what is it, about three years ago? Something like that? Lisa, I think you were involved in that.

STEVE CROCKER: Well, even so, I would have thought that if there was a need to go back over it as a matter of form or completeness or propriety or whatever, that the work that was done in the expert working group would have provided the answers. I mean, it's not as if it's -- all that thought process hasn't been laid out there.

So I would have hoped that it would go much faster.

CHUCK GOMES: Oh, you're not alone on that.

STEVE CROCKER: Yeah. We'll move on.

[ Laughter ]

CHUCK GOMES: Okay. Thanks.

STEVE CROCKER: I just have two more and they get easier.

One of the things that was very important at least from where I was sitting and very fundamental is that the information that is currently published as the administrative and technical contacts are fields that are filled in by the registrant or the person acting

on behalf of the registrant and have no formal requirement to be related at all to any functional role in the registration; that is, the person who's listed as the administrative contact, the person who's listed as a technical contact could be somebody who has no knowledge, no authority, no relationship to the operation.

So when we get to the question of accuracy and we do counts about how much is inaccurate and so forth, an alternative point of view is that the fiction that those people have anything related to it and the fact that we could all be registering completely unrelated information makes it amazing as how much information is actually relevant and positive, accurate, rather than how terrible it is.

But in setting up a new framework, one of the questions we did plumb in the expert working group was what about that information being formally related to the control of the registration itself.

The registrars certainly know who has control of the domain name. They've got an account. They've got credentials associated with that account. They have billing information and so forth. All of that is completely separate and divorced from the typical WHOIS information. So that seems to me a very fundamental issue.

I have not seen that called out and dealt with in terms of what data is going to be collected. And so I'm fearful, or confused at least, about whether the discussion about the elements that are being collected are actually going to bridge the gap that has been there.

And one more small thing, but I'll pause if you want to deal with that.

CHUCK GOMES:

Sure. By the way, I'm really happy that you just shared what you did. And the reason I'm happy about that is because it illustrates a management issue in the working group that we've had to take head on in the last few months.

You'll recall that I said earlier that so far we've only focused on this limited public dataset, more commonly known as thin data. And as you well know, the admin contact and the tech contact are known as thick data, okay? So we haven't gotten there yet. We will get there.

Now, we made the decision, right or wrong -- we could probably debate that. We made the decision that we would first tackle thin data, is what we called it then, because we thought that would be a little easier. And it probably is easier than what

we're getting into next, but it hasn't been easy. You know the history of this subject.

So what we've had to do recently -- and I'll take advantage of this for this whole audience -- is to keep our focus fairly narrow. Otherwise, we end up all over the place and nobody can keep up with the discussion. So we haven't gotten there yet. We will get there. And the points you're making are very important and will be part of the discussion. I know that doesn't answer your question directly. But if we today even, just like in our working group, talk about all these things at once, to make progress will be almost impossible. So we've had to really keep our focus each week, in fact, narrow enough so that the rest of the working group and the leadership team as well as the community can manage to keep up with the workload.

STEVE CROCKER:

Thank you.

The third item is quite specific and narrow. I've heard that there's some discussion about whether to publish the name server information. As I said, I'm puzzled on a number of counts. I'm particularly puzzled on that since the name server information is, by definition, published without any reference to WHOIS or anything else. For those who understand system

commands, the dig command will tell you the answers. It's absolutely essential that that information be automatically available publicly. Otherwise, the name system doesn't work. So there's nothing from a policy perspective left to discuss about whether that information is available or not. At most you can say whether or not you choose to make it available through the same interface or through -- or as a user accessible thing. But there isn't any -- anything to be said about the status of that information with respect to public accessibility.

CHUCK GOMES:

Thanks. And A lot of us here are totally in agreement with you, a lot of people in the working group are, on that particular issue. It has amazed me as chair of this working group things that I thought would be easy and we could just move on from, invariably I'm wrong. Sometimes we have to call them short and say enough on that. But we've had a lot of discussions on that very issue. And I don't -- well, I have to be careful of what I predict.

But let me let one of -- let me let Jim -- because Jim and Rod are encouraged especially to participate in this discussion with the audience.

Jim, go ahead.

JIM GALVIN:

Thank you, Chuck. Jim Galvin for the record. Thank you, Steve, for the questions.

I wanted to point out and just make sure that people observe that Steve is asking a detailed question which is actually covered by these four possible formulations that are up here because we do talk about registration data associated with resolution on the Internet versus registration data which is contact information or data which would facilitate communication. So we have slightly different formulations of the purpose which is intended to cover the detailed distinction of data that you are making, Steve. So the working group does care about that issue, but we haven't gotten into quite the level of detail that you are asking about.

STEVE CROCKER:

I apologize. My information flow is very noisy and comes through multiple filters. But that particular one did come to my attention, and I found it, as I said, puzzling that it would merit any discussion other than somebody who didn't understand being brought up to speed so that they stopped being confused about it. That's it. Thank you.



CHUCK GOMES: Thank you very much.

Now, we have -- before we go to the audience -- thanks for raising your hands. We have some things online. And let's start with Amr here in the front. He's going to share one with us.

AMR ELSADR: Thanks. This is Amr. There's a question from Vittorio Bertola saying: Wasn't the right question "What's the purpose of collecting and distributing data on registrants?" Here you ask what's the purpose of RDS? And reply, "It's collecting and distributing data about registrants." But how does that address the basic question posed by E.U. privacy authorities on why can't you just register domain names without providing your identity?

CHUCK GOMES: Would someone like to respond to that? Give somebody else a chance.

We're going to get to that part of the deck, too. So, sorry, yeah. So let's hold that one. Some of the things -- conclusions we've reached will deal with that.

So now I noticed that Zark has his hand raised in Adobe. Has he -- is he here? Is he in the audience? He's not. And was that Zark

who asked that question? I wanted to give opportunity for Zark.  
Go ahead, Amr.

AMR ELSADR: Thanks, Chuck. No, this was a question from Vittorio Bertola.  
But Zark has his hand raised. So if he's on the phone bridge, he  
could ask a question. He hasn't typed one into the --

CHUCK GOMES: Zark, if you are on the phone bridge, please type in your  
question and Amr will read it to the audience.

So if you are here, raise your hand so that one of the card  
holders can bring you a mic, okay?

All right. Let's go -- who's next? Over here. Number 3.

LAUREEN KAPIN: Hi. This is Lauren Kapin. I work for the United States Federal  
Trade Commission focusing on consumer protection issues. And  
I'm also a member of the public safety working group and the  
consumer trust and competition and choice review team.

First of all, a plea and feedback to you for we with not so great  
eyesight. This is a very hard to read and in a very light font.

Maybe bigger font and more vibrant colors would be helpful to people like me. That's an aside, not a question.

My question is for these specific purposes for the RDS information, I'm wondering if any of these contemplate this information being used for the purposes of folks who are interested in protecting the public from abusive behavior in the online space and even more specifically the ones called out in the ICANN contracts, malware, phishing, botnets, et cetera.

CHUCK GOMES:

Great question. And let me tell you especially over the last three months we have a very effective contingent of people advocating for the concerns you have. Now, we haven't got far enough into it yet to get to the detail level. But, absolutely, that is a very well-represented stakeholder -- it's not a stakeholder group in the formal ICANN sense. But those interests are being represented very well and will be even more so as we proceed and get beyond the public/private -- or public data into the broader data that we often call as thick. So that will be addressed. We're not there yet.

LAUREEN KAPIN: So just to follow up because I'm not sure you answered my question. For this -- these statements of purposes, this is for the publicly available or is this in general?

CHUCK GOMES: Actually, I think these particular ones --

LAUREEN KAPIN: Yes, on screen.

CHUCK GOMES: -- could probably apply more broadly.

LAUREEN KAPIN: Okay. So that's my concern, especially as the data protection regulations are on everyone's mind, or at least a lot of folks' mind. Its statement of purpose is defined in a way that doesn't include the interests that I just expressed, i.e., protecting the public from domain name abuse. Then that has very negative implications for -- and I don't pretend to be an expert on this. But as I understand it, "statement of purpose" is the foundation from which many important decisions are going to be made about whether things fall under the directive or not. And if your statement of purpose doesn't include a purpose of protecting

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the public or allowing communications and information for the purpose of performing these consumer protection and public safety issues, the game is lost before it has even begun. So I'm highlighting that as an issue of crucial concern for everyone who is interested in protecting the public from domain name abuse, which I assume includes everyone in the room.

CHUCK GOMES: Okay. Please stay standing there with the mic.

LAUREEN KAPIN: Sure.

CHUCK GOMES: Because I'm going to come back with a question. But I'm going to go to Jim first.

JIM GALVIN: Thank you, Chuck. And thank you, Lauren, for the question.

Jim Galvin for the record.

I want to say, Lauren, that as Chuck said, you are asking about a level of detail that for the moment we don't have even

tentative consensus about in terms of what items specifically fall into that category.

On the other hand, we have had discussions about the fact that supporting anti-abuse and supporting security purposes, okay, there is a question as to whether or not that's an ordinary operational purpose. And if it is, then it is included by these in that sense.

LAUREEN KAPIN:

It's subtle though.

JIM GALVIN:

And we also have in these formulations discussions about facilitating communication and identifying contacts, and that also applies in a security contacts. That's data you want and you want to get access to. So it at least is intended to be covered by these formulations.

However, what I would suggest that we do, Chuck, and I would hope that no one would disagree with this, is we should take as an action to reconsider in the working group that maybe we should explicitly call out support of anti-abuse and security activities in rethinking some of the formulations of these and maybe call that out explicitly or at least we will at some point

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have to be careful about our definitions of these terms to make sure that this is covered, if that's the feedback that we're getting. Thank you.

LAUREEN KAPIN:

And I would applaud that. I'm sorry to interrupt. I would applaud that, Jim, because putting on my lawyer hat, if someone is going to be interpreting the language here and it's very subtly implied versus explicitly stated, you have a problem. So I'm just putting on my lawyer hat.

CHUCK GOMES:

So, again, I'm going to come back to you with a question here.

One of the things we've pretty much decided is that there's no way of creating an all-inclusive list of purposes, okay? So my question to you would be: Do any of these preclude what you're suggesting?

LAUREEN KAPIN:

My answer to you would be that's the wrong question because if I am going to be thinking about data protection regulators looking at this with an eye to whether things fall under the regulation or not, then I am going to be needing to see

something that more specifically, as Jim has just stated, calls out these issues.

CHUCK GOMES: And we may get there. I would say, though, that it's not totally the wrong question because if it did -- if any of these did preclude that, then I would say as chair, then we've got to fix it.

LAUREEN KAPIN: Fair enough. I would say you still need to fix it, but I acknowledge your point.

CHUCK GOMES: And we may. We may very well. We're going down that direction.

Susan, did you want to say something?

SUSAN KAWAGUCHI: No.

CHUCK GOMES: Okay. All right.



LAUREEN KAPIN: Thank you so much.

CHUCK GOMES: You're very welcome.

And, by the way, that's why we're having this session, okay? So you're -- thank you very much.

Go ahead, Lisa.

LISA PHIFER: Lisa Phifer for the record.

One of the challenges the working group has faced all along is the highly interconnected nature of this question. And, in fact, I believe in about an hour, we'll cover a list of specific purposes for which data might be collected and possibly made accessible. Anti-abuse, you will find, is one of the agreements we've discussed already.

So if you bear with us a little bit, we'll get to that level of specificity and then perhaps pursue the question further.

CHUCK GOMES: Okay. Who's next out there? Do we have any more in the queue? We have Peter in the queue. Peter, you're here I know. Here it is, back over here.

PETER KIMPIAN: Thanks. Thank you very much. Speaking about -- I'm a member of the working group, and the purpose limitation -- purpose specification question came out regularly. So this is why I thought maybe I would share as somebody coming from a regulator, data protection regulator side, some additional issues that was discussed in the working group.

We were thinking -- and it was clearly demonstrated that I think with adequate documentation that 120 data protection regulation all over the world has put an obligation on data controller to define its primary purposes for which they want to - - they want to process personal data.

And not -- it doesn't entail to secondary, third or four, or even further purposes which can be, of course, a legitimate use of this personal data and can be -- can be accessed by third parties where every legal requirements are met. But this is not for the data controller itself to define those first, second, or third purposes.

When it comes to public interest, this is a very, very good question. This is a question everywhere where it comes to privacy legislation in every jurisdiction, I would say. But what does exactly a public interest mean? Where is this definition we have based upon us? And even we decide to include public -- public interest in these enumeration.

I also would like to go further that the regulation that Lauren is pretty much aware of, that we look for, is the responsibility -- or put it in a different way, accountability for this data processing based on these purposes. So this is, as chair rightly pointed out, I think it would be -- it would be a discussion that we will have to have in ICANN, by the end of the day have to make a decision on that. I think personally we are not there yet. Thank you.

CHUCK GOMES:

Thank you, Peter. Chuck speaking again.

And we will have to have that discussion, okay?

And it's in our plan. Now, we're actually in the process of gathering more information without -- with regard to privacy and data protection. Many of you remember in Copenhagen we had a session on -- with data protection experts from Europe. They provided detailed answers to a list of over 20 questions that we asked.

We're now in the process of reaching out to an independent legal expert at the request of several working group members to answer those same questions so that there's an independent source that isn't directly related to data protection and so forth. So that's in process.

We've got to gather more information to deal with all these issues and we're working on that.

I think if there's no -- is there anybody else in the queue right now? We're going to have to draw this to a close or otherwise we're not to get through very many of these so let's make this the last one on this area.

JORDYN BUCHANAN: Hi, Chuck. Thanks. And maybe -- this may be another one where you say it's going to be --

MICHELE NEYLON: Could you please state your name?

JORDYN BUCHANAN: I'm sorry, Jordyn Buchanan with Google. This may be one where we find more detail later, but I -- other people have been talking about GDPR. I'm not a lawyer. I'm not going to think about

privacy regulations. I am -- I sometimes play an engineer on TV, though.

And when I look at these purposes, like I certainly don't think I could build a system that did a very good job at supporting them with this level of detail because it's not particularly detailed.

The way I look at this is like if you were tried -- tried to describe the purpose of a car, currently this reads a little bit like, "Oh, the reason why you would have a car is because it rolls around on the ground." And that's actually not a very good purpose. Like you might want to use a car to like drive to the store or drive to work or something like that. You might want to like carry stuff in it and there's various things you might want to do with it. Just rolling around on the ground is something that it can do but is not a very useful -- no one would buy a car just on that basis.

And so I think, you know, in engineering we talk about having use cases for things, and that implies like knowing an actor interacting with the system to accomplish a goal, right? And I don't see that here. I don't know who's interacting with the system and I don't know what they're trying to accomplish in doing so, and I think that's the level of detail that's missing here and once -- and until that, it's going to be, I think, difficult to satisfy the lawyers over there, but it will be also difficult to satisfy the engineering side of the equation to actually build a

solution that will do a good job at whatever you're trying to accomplish.

CHUCK GOMES:

Thanks, Jordyn. Chuck speaking again.

And keep in mind that we're in a requirements development phase, but not operational requirements. These particular things relate to operations. When we get to Phase 3, if we get there -- and I say "if" because of the contingent question -- right? -- we're going to have to get to that level of detail, but that's quite a ways off. Now, that doesn't mean that we shouldn't consider those as we're going through these, but again, hopefully all of you are seeing, through what's happening in this meeting today, you're experiencing in a little microcosm what the working group is going through every week in trying -- how much detail can you deal with at once.

So we have to get to that level of detail later on, so that it's clear in the implementation details, and hopefully that will happen.

So -- now, before we move on from these, you see those four purposes there. All of you should have in front of you a red or a green card.

If you're relatively comfortable with these four statements of purpose, would you raise a green card? If you're not, raise a red card, so that we can get a general sense of the room about -- and hold them up high so that those here at the table can see them, and the working group members around the room. And -- well, I have -- the way I worded it wouldn't work.

Okay. So we've got a few red. We've got some green. We have a lot of undecided. Okay?

That's okay. But it gives us a quick sense.

Okay. Enough time on that. Now, is there anybody that doesn't have a card? Okay. Then if you're -- if you would have raised a green card, raise your hand right now. If you would have raised a green card and you don't have one.

Okay. If you would have raised a red card and you don't have a card, go ahead and raise it now. We don't want to leave you out. Okay. Thank you very much.

Let's go on to the next -- two slides ahead, please.

And I'm going to call on Michele and Stephanie, one of our vice chairs, and one of our other active working group members, to cover the next slides, and so we -- we're going to talk about preliminary agreements on minimum -- the minimum public

data set. That's that thing we used to call "thin data." Okay? Go ahead.

MICHELE NEYLON:

Thanks, Chuck. Michele, for the record.

Okay. So for those of you who are conversant with WHOIS, there is the concept of thin data and thick data.

So essentially -- so we've -- when we were going through the various data elements, we decided we would split it up that way, as Chuck mentioned in his introduction. However, because this is ICANN and using the same terminology would be far too easy, we have -- of course, have to change that terminology slightly.

So what we're talking about here is the initial deliberation focusing on thin data as defined by the thick WHOIS report. So there's a definition there. "A thin registration only stores and manages the information associated with the domain name. This set includes data sufficient to identify the sponsoring registrar, status of the registration, creation and expiry date, name server data, and the last time it was updated."

So there's an example on the slide there of that set of data.

So if you think -- for those of you who are a bit more technical, this would be the section of data that you get back from the



VeriSign WHOIS servers as opposed to the data that you're going to get back from the sponsoring registrar's servers.

Now, of course we know that these are not all the data elements and these aren't particularly interesting data elements. I mean, as Steve said, you know, if you don't have WHOIS -- if you don't have WHOIS servers -- sorry, name servers associated with a domain name, it's going to be pretty hard for it to resolve on the Internet. So we thought this was going to be fairly uncontentious, but of course that proved to be a dangerous assumption to make.

So if you go to the next slide, please.

So the question -- so I'll hand over to Stephanie, my able colleague.

STEPHANIE PERRIN:

Thanks very much. Stephanie Perrin, for the record.

And my task is simply to read this question, which is: "Which gTLD registration data elements should be included in the minimum public data set?"

And we haven't quite got to the point of determining how that gets made public, but that's the minimum public data set.

And so the draft working agreements -- working group agreements that we have so far, there's 25, 26, and 27.

"Minimum public data to be used as a replacement within working group agreements to date for what had previously been referred to as "'thin data.'" The reason for this being confusion.

26: "The DNSSEC data element should be added to the minimum public data set."

And 27: "Today's gTLD WHOIS registration data elements classified as 'thin' are sufficient at this time to be referred to within working group agreements hereafter as the 'minimum public data set.'" Thanks.

MICHELE NEYLON:

Thanks, Stephanie.

So this -- I mean, this is pretty much where we're at. So we're now throwing this open to input and commentary. I won't go to the next slide because all it has is a nice big question mark on it, unless you all want to stare at a question mark.

So if anybody has any input or thoughts on this?

CHUCK GOMES: And this is Chuck. While you're thinking, we're going to, in a little bit, ask you to raise those cards again, so -- so be prepared. That's coming. We have one over here. And let's look in the queue here.

I don't see anything right now. Yeah. Okay. Oh.

MICHELE NEYLON: He has a microphone in front of him.

CHUCK GOMES: And let me tell the mic holders, if they're at a position where they have a mic, they can -- once we call on them, they can use that mic but that's fine. You can use that one.

NIGEL CASSIMIRE: If it works. Oh, yes, it does. Hi, I'm Nigel Cassimire from the Caribbean Telecommunications Union. I am a -- we are an observer member in the GAC.

I'm an engineer, so I'm not from data protection or anything like that. The slide with the four purposes, I understood the references to, say, specific social purpose to come under the rubric of approved policy or applicable policy, those words that

were mentioned in the four, so that's why I was comfortable with my green card at that time.

One of the things in the four purposes that was stated, though, was -- and in fact, it might help me if we go back to the slide before this one which kind of listed the -- the thin --

Okay. Thank you.

One of the purposes that was stated is -- or was to facilitate contact with the domain name holder or some -- something to that effect. And my question really is: The information that's here, I don't know that it will allow me to do that.

MICHELE NEYLON:

You're a hundred -- this is Michele for the record. You're 100% correct. So the -- as Chuck mentioned in the introduction, and I tried to touch on going through these slides, the WHOIS data, we split it into two parts. So the first part were the bits that we kind of viewed as being purely operational and less contentious when it comes to details of who has access to it and all that, because as Steve says, you know, name servers are required for a domain to resolve on the Internet. Obviously the domain name itself is required, et cetera, et cetera.

When we start looking at the other data elements, such as registrant and admin contact, technical contact, all of that, that's where you get the entire thing around the contact details that you or somebody else could potentially use.

So you're 100% correct and that's actually by design.

NIGEL CASSIMIRE:

But we are now calling it "minimum public" -- or what's the exact term, if we go back to the question? The -- yeah. It's now called "minimum public data set," which, to my mind, should allow you to meet the purposes that you would have established in the first place, and if we're calling it "minimum public data set," that to me doesn't meet that particular purpose in the four that were listed.

CHUCK GOMES:

Yeah. I'm not sure we fully understand that. Lisa, go ahead.

LISA PHIFER:

Lisa Phifer, for the record.

So in an effort to move forward within the working group, we, based on some working group member suggestions, decided to focus first on the thin data, not because it would be the only

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data because we felt that possibly as a working group we could agree that all of those certainly should be public, and then we could move on to additional data.

And so that is, in fact, what we will be doing next, we hope, starting this Wednesday at our face-to-face, is beginning to look at contact data for registrants and administrative and technical contacts, and possibly they could become part of a public data set. They just aren't this minimum core that everyone -- well, most in the working group -- agreed should be public under any circumstances.

CHUCK GOMES: Does that make sense?

NIGEL CASSIMIRE: We're calling it -- we're calling it "minimum," though. Isn't that what was listed there? Are we asking if what was listed there should be a part of the minimum and possibly some other things?

UNKNOWN SPEAKER: (Off microphone.)

NIGEL CASSIMIRE: Okay. Right. Well, that makes sense.

MICHELE NEYLON: So I mean, just to follow up with you, I mean, the thing is, we're agreeing that these should be in that group. We're not saying that that group couldn't end up with, you know, a hundred elements. I'm not saying it's going to have a hundred elements either, but it could have obviously much more. But we -- we can actually agree that these ones are perfectly okay.

Once we get into other data elements, I'm sure that some people will be quite passionately opposed to including some and others will be very passionately in favor of including some, and that's -- what we're trying to do is reach agreement on areas where there is, well, the possibility of reaching agreement, I suppose.

CHUCK GOMES: Okay. We haven't had anybody from way in the back so let's go to Number 4.

ELSA SAADE: Hi. Elsa Saade, for the record. I just would like to make a small highlight that here we're talking about thin data rather than thick data, and in the sense when we're talking about anti-abuse, we shouldn't be looking at thin data, but rather thick

data, when legal mechanisms are there for registrars who have more information. But here we're talking about public data. When we are mentioning anti-abuse and public data that is thin in that case, we're putting ourselves in danger of abuse from the ones with authority or abuse from the people who actually have access to that data.

So when we're talking about anti-abuse, I think this -- this discussion should be more on the thick data, rather than on the thin data. And the thin data, the way that it is currently, I think, should go more into the discussion, but anti-abuse should not be a part of that, in my opinion. Thank you.

CHUCK GOMES:

Thank you very much. This is Chuck again. I want to point out to everybody that there are over 190 members of this working group and over 170 observers.

Focus on the members. 190, all from different interest areas and stakeholder groups and so forth. If we don't narrow our focus to a smaller set at a time, our email list -- and we've had this happen -- gets so large in 24 hours that none of us can keep up with it.



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So you're right. We need to be looking at the thick data, and we are hoping to start that this week. It will take a while. But bear with us, okay?

Just like the working -- we've now had to establish some rules that say, "Hey, working group members, here are our topics of focus right now. Please restrict yourselves to those. Otherwise, the whole list gets totally unmanageable." Trust me, we've experienced it firsthand.

So bear with us. Yes, we're taking it a step at a time. But if we don't do that, with over 190 members and hugely different interests, we would make no progress at all.

So we're taking a piece at a time. Is that the best way? Well, it's probably the only way we can make any progress.

So please bear with us in that regard.

Okay. Steve?

STEVE CROCKER:

Thank you. Sorry to be so vocal today, but certainly maybe I'll become the honorary 191st member.

Looking at the data that's up on the -- on the chart there, on the slide, it breaks into a couple of different categories, and I'll run through them from easy to -- things.

Stuff on the bottom, the name servers and the DNSSEC, is publicly available through the DNS and it's irrelevant, as I said before, whether you choose to include it or not because it's there.

So you can put those in one category and just move those off to the side.

Now, a natural question is: If that -- if you have access to the data that's up there, what can you do with it?

Well, primarily, with a couple of exceptions I'll get to, what that tells you is how it's registered. I mean, what registrar is the registrar that has the control of that registration. And what the expiration date is.

It doesn't give you access, as has been heavily discussed, to the registrant, but it tells you that if you are very eager to get access to the registrant and this is all you have, you go to the registrar of record there.

If I turn around to the other side and I say, "If I'm anxious not to be contactable in general," then not only would I not want any

of the other information that we haven't talked about, like contact information, published but I would just as soon not have the registrar be visible.

Has that been discussed at all?

MICHELE NEYLON: Thanks, Steve. Michele, for the record.

It was something that was brought up, as some people did touch on that, and I believe several people within the working group made a strong argument that the registrar of record should be part of the -- should be part of the public record.

STEVE CROCKER: And is -- I don't want to -- I don't want to hear what the substance of it is, but is there a rationale associated with that that will be explainable to our future generations?

MICHELE NEYLON: Being able to reach the registrar?

STEVE CROCKER: Yeah.

MICHELE NEYLON: I believe that when we discussed this, it was mainly around the fact that as you have -- otherwise, it would just go to the registry, so that you would have some way of contacting whoever is responsible for -- for a domain registration.

I mean, I don't remember the ins and outs of what we discussed but I don't think it was particularly contentious.

Now, if you disagree, that's fine. I mean --

STEVE CROCKER: I don't have a -- I mean, that's not my style to be that covert about my registrations, so it's not a personal issue, but I'm just thinking about it logically. What does this information enable, and is that related to a policy question?

I'll just move on, rather than get into a back-and-forth.

Another interesting piece is the expiry date which paints a target on that for drop-catching or for other things. That would be another potentially sensitive piece of information that as a registrant I might want to hold back on and as somebody who doesn't have the domain but is interested in it, for one reason or another, might be particularly interesting. So in my mind that is somewhat distinct from the basic information about where it's registered and when it expires. Well, the -- when -- sorry, when it

was registered. Where -- which registrar it's registered through. So I just wanted to put those in context. It's sort of the flip side of the argument or the questions that the good gentleman raised at the beginning of this sequence here.

MICHELE NEYLON:

Thanks, Steve. The question of whether or not the expiry date for a domain name should be made public or not is something that has been discussed. I'm not -- I think we have rough consensus, but it's -- but it is something that has been discussed and there were several people who expressed similar views to yours. Lisa, I think those were your views. So Lisa, maybe you might want to touch on that.

LISA PHIFER:

Yeah, so this is actually a good opportunity to emphasize a little bit how the working group has been proceeding in trying to establish these points of rough consensus. So as Chuck mentioned earlier, each week as we develop what appears to be agreement on a point, we do a poll subsequent to the call and we try to test that point. How many people agree, how many people disagree. If you agree or disagree and you want to give your rationale, please do. And we have, in fact, on that both with the registrar data element and with the expiration date,

there was much more contentious -- contention over the registration date but ultimately I believe it was somewhere in the 70 percentile of people who participated in that particular poll felt that registration -- the expiration date was an important part, and did give a specific rationale for that. So we've been capturing that rationale, and as we move forward we'll use that rationale to develop more succinctly and clearly what the purposes are for collecting each of these data elements and making them accessible in whatever way the -- the agreements choose to make them accessible.

CHUCK GOMES:

And this is Chuck. And one other thing we get out of those polls, there's always opportunity for comments. And in many cases we've made edits to the statement that was being polled based on constructive suggestions from those in the poll. So our statements get a little bit better, we hope, as we go. So it's not only getting a sense, is there pretty strong agreement and no really super major objections. Now, even if there's strong support but if somebody points out something that's a serious flaw, we might back off of that agreement. So we're looking at these things. And keep in mind, we can come back to any of these later, but this is where we're at right now.

Not seeing any others, let -- oh, we -- Stephanie, of course, you're one of our leaders on this one, so I want you to comment.

STEPHANIE PERRIN:

Thanks very much. Stephanie Perrin, for the record. I have been very well behaved so far, Chuck, but I'd just like to invite Steve Crocker, if he has any spare time, to join the working group because I could have used some support on that expiry date issue. My point that I'd actually raised my hand for that I don't think we've possibly spelled out but the gentleman who was at the microphone from Google kind of illustrated the problem. We do have a language difference in how we approach things. And those of us who are looking at this from the framework of data protection -- and Peter Kimpian was at the mic -- we look at purpose in one way. And if you're an engineer building a system, you think in terms of use cases and what you can affordably build into the system without, you know -- these are totally different orthogonal ways of thinking. And that has been, I think, a major problem in -- in going quickly forward. And it's probably beset every single working group that's ever worked on the WHOIS issue. But that is a -- a problem that I think people should be aware of, that when the framing is different, just communicating what you're trying to say is difficult. Thanks.

CHUCK GOMES: Thank you very much, Stephanie. All right. You have your cards ready? Let's go back -- well, keep in mind these elements here, okay? And the working group actually added -- we started off with a thin set that didn't include DNSSEC, but there was good agreement that that one should be certainly included in that, in the working group. So let's go back to -- I think the previous -- it was the previous -- or maybe it's forward.

MICHELE NEYLON: The next slide.

CHUCK GOMES: Next slide, please. So that people can focus. Okay. So here's three of the tentative conclusions. You notice it says 27. Number 24 ended up being eliminated, so there are a total of 26. But take a look at those. If you're -- you think you're in support, we realize you haven't had the focus on this like the working group has, but we'd just like to get a general sense of the room. If you're okay with these, as far as you can tell right now, understanding that we may come back and visit -- revisit some of them, put a green card up, and I will -- I'll just do green cards right now so that those who don't have cards can just raise your hands. But put a green card up if these look okay to you. Okay. All right. You can put those down. If you are not, if you'd put a



red card up. Or raise your hand. I see one hand over here. Two. Okay. Good. It's pretty much the way it comes out in the working group, too. Okay? That's about the same ratio. And once we see a whole package, we'll come back and look at all these things together and see where we need to make adjustments. Thank you very much.

Now what we're going to do right now is we're going to take a ten-minute break, okay? Please try and come back quickly because we have a lot of ground to cover. And this is really -- I hope this is valuable to you, okay? But certainly we would -- we really appreciate the feedback that we're getting here. There's been some excellent feedback. And as Steve has illustrated -- he would have been a good member because we've talked about a lot of these things in a lot more detail, and so -- but let's take ten minutes, so if you can try and be back in ten minutes, or if you want to just chat in the room, that's fine. I know I need a ten-minute break. So come back and we'll pick up on the next top -- next set of agreements when we return.

[ Break ]

CHUCK GOMES: Okay. If I can have your attention, let's start regathering, please. We're going to start off with a quick red/green card poll. So please get ready. If you can return to your seats, that would be appreciated.

Okay, we're going to restart in about a minute. So please, take your seats.

Welcome back. And thanks for the great participation. And for those of you who haven't actively participated, we certainly encourage you to. But we hope you're finding this beneficial. At the end of the meeting today I'll probably do a red/green card poll just to see if it was beneficial to you. We hope it was. It has been very beneficial for us. Okay? And we expect the rest of it to be as well.

Now, it was pointed out on the break that we probably should have done a more specific poll of the room to get a sense of the room with regard to this minimum public data set that a large number of the working group members have -- have supported. Not everyone. But they've supported this data set. So take a look at that minimum public data set, keeping in mind that that's where it's at right now. It -- we will be looking to add additional elements later on.

So on -- The first question I'm going to ask, if you're pretty comfortable with this whole minimum public data set as we've defined it so far, I'm going to ask you in a moment to raise a green card.

Now, for those of you who have a little disagreement, you're going to get a chance to do that. So you don't need to raise the green card right now if you have a little bit of disagreement.

So I want to get a sense of how many in the room, at least as far as you understand it right now, are pretty comfortable with all of these elements being publicly available without a user having to state a purpose themselves or without having to be authenticated. That's pretty much what the public -- minimum public data set is.

So for those of you who are pretty comfortable with all of these elements, would you raise a green card or your hand if you don't have a card.

Okay. Thank you.

Now -- By the way, I was talking to, I think, David Conrad in the back of the room when I left, and I told him, I says, you know, I understand why a lot of people aren't raising cards. Because you're being exposed to information that we've been dealing with for a year and a half and being asked to express an opinion.

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So I don't have a problem with the fact that some of you are being cautious in that regard. That's okay. But it's still helpful to get a sense of the room.

Now, if you disagree with maybe -- maybe disagree with just one element in that, would you raise your -- raise a red card or your hand. Okay? Just one. Okay. That's not bad. Okay. That's good. And we're going to revisit those. As Stephanie said, she really liked the fact that Steve agreed with her and wanted his support when we were all opposing her. Just teasing. Okay.

Now, how many would maybe disagree with more than one element in this set? Would you raise a red card or your hand.

Okay. All right. Good. So it gives us a -- All we're trying to do is get a sense, and that's very helpful.

All right. Let's move on to the next session. Thank you very much for your participation in that. And let me make sure I'm organized here.

So I'm going to call on Susan and Alex and Sara to present the next set of -- of items, and do we start with you, Susan? Is that good?

SUSAN KAWAGUCHI: No, actually Sara Bockey.

CHUCK GOMES: Remember to introduce yourselves, those who are presenting.  
Thank you.

SARA BOCKEY: Yes, this is Sara Bockey from GoDaddy.

And so as you can see from the slide in our discussions, we've been looking at gTLD registration data elements in the minimum public data set. And if it should be accessible for any purpose, or only for specific purposes. And while this working group will be continuing its deliberations on the purposes of the minimum public data set, we have agreed that every data element in the public -- in the minimum public data set should have at least one legitimate purpose, and that every existing data element in the minimum public data set does have at least one legitimate purpose for collection.

SUSAN KAWAGUCHI: Okay. And let's move on to the next slide. Thanks, Sara.

Okay. So the question -- What was that? Closer? Sorry about that.

For what specific legitimate purposes should gTLD registration data elements in the minimum public data set be collected? And we have draft working group agreements. 4, EWG-identified purposes apply to at least one data element in the minimum public data set. 5, domain name control is a legitimate purpose for minimum public data set collection. 6, technical issue resolution is a legitimate purpose for minimum public data set collection. 7, domain name certification is a legitimate purpose for minimum public data set collection. And 8, business domain name purchase or sale is a legitimate purpose for minimum public data set collection.

And we'll move to the next slide with Alex.

ALEX DEACON:

Thank you. This is Alex Deacon, for the record.

Yeah, so to round out the ten of these draft working group agreements, number 9 is academic and public interest DNS research is legitimate. Number 10, regulatory and contractual enforcement is a legitimate purpose for minimum public data set collection.

Criminal investigation and DNS abuse mitigation is also a legitimate purpose for minimum public data set collection. Legal actions, the same. And then number 13, individual

Internet use is legitimate purpose for minimum public data set collection.

SUSAN KAWAGUCHI: Thanks, Alex.

And I do want to point out that Laureen's question earlier was whether or not, you know, we specifically referenced anti-abuse. And you'll see that here, but we also heard from a speaker in the back that didn't want anti-abuse to be part of the legitimate purpose. So it's always a continued discussion.

CHUCK GOMES: Thanks to all four of you for that.

Now, we have a bunch of items here, and so we're going to open it up for comments and questions. And if you'll just let us know which one or which slide, you can guide us through it, we'll try and show that slide -- so I think there are three slides, at least, covered here -- so that the whole audience can focus on what you're talking about.

So now is the time to ask questions. And while you're getting ready and letting the mic holders that you want -- again, if you're -- if you're at a mic, I think those are working, you can just raise

your hand and one of the people with the cards can kind of point to you rather than give you a mic.

Thanks to the -- Of course, an awful a lot of work as Steve Crocker pointed out earlier came from the Expert Working Group and what they produced. And this list of purposes, legitimate purposes, we started with a list that they produced. So thanks to them for contributing this. And then we decided -- and we don't have to accept everything they said, but in this case the working group reached pretty strong agreement that all of these were legitimate purposes.

So let's start with number one.

TED HARDIE:

Ted Hardie. Two clarifying questions. First, in this slide you have data set in what appears two different contexts, one of which might be an individual record, for example, for the purposes of a legal action, and which also might be a large data set of individual records for -- for the purposes of academic and public interest research.

Are you, as a working group, distinguishing between those two different use cases where there is, in essence, a grouping of records required to accomplish a legitimate purpose versus a single record required to accomplish the legitimate purpose?



The second clarifying question, just to get them both out at once, is in number 13 you have "individual Internet use," but I don't think I understand what you mean by that. And further elucidation would be welcome.

Thank you.

SUSAN KAWAGUCHI: So -- and, Lisa, you can correct me if I'm wrong.

On your first question, I'm assuming when you're saying a large data set that you may -- might go out and do a reverse WHOIS and find many domain names that relate to one -- one element of that data set?

CHUCK GOMES: The mics -- his mic is not working, if we can....

Mic number 1 is not working.

TED HARDIE: I think it's back on now. So an example here is you might look at all the second-level names under a particular TLD, look at the WHOIS records as an academic researcher to see what concentration of -- of them was being held by a single company or associated even with a single expiry date for the purposes of,

you know, what's the chain of expiry. You just might have to have a whole swath of data in order to do an analysis like are there -- are there clusters of expiry data or clusters of registrars involved in this. For the purposes of competition data, for example, you might want that.

But in order to do that, you would actually have to have access not to a single record but to a whole grouping of record in order to accomplish the research. Are you as a working group distinguishing that sort of use case from the use cases where what you need is access to a single record in order to offer a sale or to conduct a legal criminal investigation or contractual enforcement? That was the kind of distinguish -- distinguishing question I wanted you to answer.

LISA PHIFER:

Lisa Phifer, for the record.

So one of the subtleties, perhaps, in this list of specific purposes listed is that the working group started by agreeing on these as purposes for collecting data, not actually looking at the purposes for which data could be accessed, and accessed in different ways. So I believe you're talking about the difference between an individual record query and perhaps bulk data access. We actually haven't discussed that yet. What we have

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discussed is that all of these might be purposes for collecting the data in the first place, so that you might access it in different ways. And in fact, the working group is not completely on the same page about the difference between a purpose for collection and purpose for access. So you'll have to bear with us a little bit that we're still working through that part of it.

We know, though, that we do have to get to looking at each of these purposes and whether, in fact, they are a use case that should be supported, or at least in the requirements they should be a requirement for support.

CHUCK GOMES:

Yes, and let me point something out. In our most recent teleconference working group meeting that occurred last week, we struggled for a while -- maybe it was the chair struggling more than anybody else but I think that I finally got it -- and, Stephanie, you helped a lot in that, as well as other people that contributed, in making a distinction between collection and purposes for collection versus access. And like Lisa said, we're going to have to do a lot more work on the access part, especially as we get into gated -- the possibility of gated access.

So -- Did that answer your first question?

TED HARDIE: Frankly speaking, I think you said you're not ready to answer it because you believe it may be possible to do a collection that might serve a bulk purpose -- a bulk research purpose, but you won't know that until you figure out whether that bulk access would ever be granted. So you wish to say that the collection is legitimate, even though you may never say that the actual research access will be granted.

CHUCK GOMES: Well, I'm not sure if it came to that point that there was no need for access that we'd end up with a conclusion that we would collect it.

TED HARDIE: I tend to agree, but what I heard you say is you're not ready to answer that question.

CHUCK GOMES: No. We have to do more on that.

TED HARDIE: But I think it made me even more curious about the second question, because if the second -- if individual Internet use is something you're perceiving as a use case for collection, I -- I

don't understand what this means at all. I can certainly imagine what it might mean for -- for access, but for collection, I -- I really struggle to understand, and elucidation would be very useful.

Thank you.

CHUCK GOMES: Alex, would you respond, please.

ALEX DEACON: Yeah. Alex Deacon.

So, Ted, one of the kind of use cases we've discussed over the months for this particular purpose is -- is, you know, ensuring a user has the ability to -- to know who they're doing business with, for example. It's another point of data that an Internet user can use to figure out, you know, what website they're accessing, who owns it, and why. So that's one of -- of the use cases that we've discussed. I don't know if that helps, but just thought I'd fill you in.

UNKNOWN SPEAKER: (Off microphone).

ALEX DEACON: Well, at a minimum.

CHUCK GOMES: Alex, repeat his question, please.

ALEX DEACON: He asked if -- does the minimum public data set do that for the end user.

I mean, it's the start, but as I think we mentioned earlier, there's more deliberation and more elements that may be added to this.

CHUCK GOMES: Did somebody else want to respond to this particular issue? I saw a hand up front here. Is that on a different issue? That's it on this. Okay. Who's next? Let's look at my Adobe.

Kavouss, did you have -- you got a mic? Go ahead.

KAVOUSS ARASTEH: With the explanation given, still I am not very comfortable to properly understand the meaning of "individual Internet use." Versus what? Versus collective Internet use? Versus what? What does it mean? Can you explore that, please?

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And then the question is that: Is these 13 items are exhaustive list, or is there a possibility to add something on that? Sorry, not been able to attend this one and a half year of activities and just a question for clarifications. Thank you.

CHUCK GOMES: Michele, go ahead.

MICHELE NEYLON: Thanks. Michele for the record.

Kavouss, good question. Individual Internet use, I think as Alex and a couple of other have people tried to explain, so let's say you are sitting at home. You get an email from somebody asking you to sign up for a service and there's a link. So you know how to do a WHOIS lookup, and you check to see if it's legitimate, for example.

So one example I can think of, a particular vendor we deal with they use their main domain for 99% of their communications but for some bizarre reason have decided to use vendornamemail dot something for other communication. So I would have checked to see is that actually them. Does that help you? Okay. So that was to cover that kind of "I know how to do a WHOIS lookup. I know how to do a quick couple of technical checks."

The other thing is, in terms of your second question, if I understood it correctly, everything is still open for discussion. We're not excluding anything at this juncture. What we're presenting today are those areas where we have the least level of disagreement. I'd love to say we have full agreement, but that would be a lie.

But these are the areas where we have a reasonable -- a reasonable level of agreement. We're still going to be looking at a lot of other things. And so if people are concerned about something not being addressed now, please don't be. It will be addressed. And if you find that we haven't addressed it in our interim report, our final report, or any other juncture where we're going to the rest of the community for input, please do let us know.

CHUCK GOMES: Thank you. Let's go to mic 1 again, please.

LANCE HINDS: Thank you. Lance Hinds, government of Guyana.

I'm curious about 10, regulatory and contractual enforcement. Could somebody give me some sort of idea or an example of how that would apply.



MICHELE NEYLON: Michele again for the record. As an dirty, filthy registrar, I do have to deal with this from time to time. So, for example, law enforcement or a consumer protection agency might want to investigate a domain name for whatever reason. Maybe they want to investigate a Web site, an email, some other element. So knowing who to address those queries to would be helpful.

So, for example, a domain name that is registered through my company, we will obviously have some information related to it. But if you ask us for about, say, for example -- I'll pick on google.com as an example, there's no point addressing a query about google.com to my company, we know nothing about it, no more than anybody else does. Does that help you?

LANCE HINDS: Yeah... okay.

CHUCK GOMES: Tapani, I think you're next.

TAPANI TRAVAINEN: Tapani Travainen from Noncommercial Users Stakeholder Group for the record.

I'm looking at this legitimate purpose and I think there's some confusion here what it actually means. If it's understood to mean that any of these purposes listed is sufficient reason for adding data there by itself, then this list obviously has things that have no purpose, business being there.

But if the intent is there is some language in the European data protection that says that we can only use data for the purpose it's collected for, then I guess that's the idea here, that they would want to list those purposes so it can be made available for those purposes as well. That the intent is not that just any -- anything that any academic would want can be added there on those grounds alone, right? So the point here is that we actually are looking for reasons for access, but we have to make it list legitimate for collection purpose because the data protection language requires that. Is that the point?

CHUCK GOMES:

And I think -- and others should help me out on this one because I'm not sure I will do a good job of answering it. And we'll let Stephanie respond, too. I think where you're going is probably going to have to be dealt with when we get down into more detail with regard to access. If we have got a legitimate reason for collection, then we're going to have to -- especially if we look at gated -- or we're going to look at gated access. It doesn't

mean that it will be the rule of the land in the end. But certainly the expert working group suggested that.

And when we start looking at gated access for particular interest groups, we're going to have really look at that. And we haven't gotten very far on that. Especially with regard to who gets access, we haven't really done at all yet, other than the public part.

Did that help a little? Was it a little bit responsive? I don't think we're totally there yet.

Stephanie, go ahead.

STEPHANIE PERRIN:

Thanks very much. Stephanie Perrin for the record.

Just to follow up on what Tapani was saying here and to repeat what I did try to clarify in our last call, looking again through a data protection lens at this series of agreements, ICANN doesn't actually set in place policy to collect data for academic research. So it's really quite important through a data protection lens absolutely in the public interest we would release data for academic research, but we would not set about policies for collecting data to facilitate academic research.

Same thing with criminal investigation. While it is safety and stability -- I'm sure I'm using the wrong one -- security and stability, that's a goal. That's a very broad goal. Drilling that down, ICANN is not in the business of facilitating criminal investigation because it's not in the business of collecting data for law enforcement.

Releasing it for law enforcement absolutely. Facilitating that access in a way that would tie law enforcement in knots, absolutely. But we don't collect it for that purpose. We collect it to run the Domain Name System. Thanks.

CHUCK GOMES:

Thanks, Stephanie.

And we've got some more hands, and I'll get to them in just a minute.

But this is an area that I really didn't fully appreciate until our last working group meeting. And Stephanie as well as others made that clear. In other words, if we're going to collect data, there needs to be a legitimate purpose.

But we may allow access to data for a particular stakeholder group even though that may not be the purpose for collecting it.

If it's already collected, there may be a legitimate reason for allowing access. And I think Stephanie said that very well.

I'm not sure who's next. Let's go to Number 4. Make sure if you are at a mic -- do you have Jordyn in yours over here? Okay. There's another one over here that you need to get in your queue.

Let's go to Number 4.

UNKNOWN SPEAKER:

Hi, my name is Rahel Zafu (phonetic), and I'm with Google registry. I wanted to go back to Number 10. Could you explain why regulatory and contractual enforcement are lumped together? Because as a lawyer, I do think of those as two very different things, and I think it's very possible that there could be a legitimate purpose for collecting one and not a legitimate purpose for collecting the other.

And also to build on that, are we saying that these purposes are in and of themselves sufficient to justify the collection? Meaning is contractual enforcement in and of itself legitimate to justify collection regardless of what it is that the contract says? I can put anything in a contract and require you give it to me and that makes it legitimate.

CHUCK GOMES:

So this certainly doesn't -- I welcome help on this one.

So what this says is that the regulatory and contractual enforcement is a legitimate purpose for that -- collection of that minimum public dataset. So maybe you can clarify your question.

Most people in the working group think it is a legitimate reason for collection, okay? Not necessarily everybody. Rephrase your question for us, please.

UNKNOWN SPEAKER:

Sure. So the question is: Why are "regulatory" and "contractual enforcement" linked together? For instance, you've separated out legal actions. And I would anticipate that, if anything, regulatory aligns more closely with legal actions than it does with contractual compliance. So I'm trying to understand why the regulatory and contractual compliance -- contractual enforcement are lumped together.

CHUCK GOMES:

Stephanie, do you want to respond to that question?

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STEPHANIE PERRIN: Yes. Stephanie Perrin for the record. I really think what we've got there is just a typo. It should be "regulatory and contractual enforcement are." That still isn't a sensible sentence, but you know what I mean. They are definitely distinct. Regulatory enforcement and contractual enforcement are distinct, but they are both legitimate purposes according to this formulation. I, of course, disagree, but that's on the collection business.

CHUCK GOMES: And Stephanie never disagrees with anything we agree on.

STEPHANIE PERRIN: And I haven't slowed us down at all.

[ Laughter ]

CHUCK GOMES: So are you suggesting that we should separate them, that it would be better?

UNKNOWN SPEAKER: Given that response, yes, because you could say for all of these: "Regulatory, contractual enforcement, criminal investigation, and legal actions are legitimate purposes," right? I think there's a reason you've separated them. And given the explanation,

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regulatory and contractual enforcement are, in fact, two distinct things. So my suggestion would be to separate them.

CHUCK GOMES:

That's a good, constructive suggestion. By the way -- and somebody can correct me if I'm wrong on this, I don't think we had any particular intent in lumping them together. Your point is well-taken.

Anybody else want to add to that? Go ahead, Lisa.

LISA PHIFER:

So the reason that they're lumped together from this working group's perspective is that we actually started with the results in the EWG report and looked at them a little bit and said is this a legitimate purpose or not. So truth be told, they're lumped together because they were lumped together in the EWG report. I think your point is a good one, that perhaps they shouldn't be.

You also asked, though, if this is a legitimate purpose, then would it be -- does that mean anything that would be in a contract then would be legitimate? And I'd just like to point out so what the working group is trying to do now is establish some requirements for policy development. The policy would actually then say, well, what does contractual enforcement require and



specific policies about what data would be needed to support that purpose. This is sort of setting the framework for what would need to be developed very specifically in policy.

CHUCK GOMES:

Thank you.

I'm not sure who's next. But let's jump over here. There's three or four people in queue, and we're going to try to get to all of you. But let's go to number 2.

HEATH DIXON:

My name is Heath Dixon. I'm speaking in a personal capacity. That last comment actually makes me even more worried about what we were just talking about here. The idea that we have put these each up as a reason for allowing the collection of data so that then, for example, an academic could say, Well, I want to collect data on the gender, the race, the religious affiliation, the political affiliation of the registrants because that's important for me to be able to research the diversity behind domain name registrations would for -- not allow for, but would require registrars to collect sensitive personal data because an academic -- we said that an academic or public interest DNS research is a legitimate purpose.

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Once you put these purposes up there and say that these purposes can be used to drive the data elements that are going to be collected, you put power into the hands of law enforcement, academics, the legal actions, anybody who wants to pursue a legal action -- if you ever had to answer discovery, there's a lot of information that's requested in a legal action that we should not have registrars collecting.

So it seems to me that these things would be better saved as justifications for accessing the data, not as justifications for collecting the data because once you put those in, you expand the scope of what's potentially collectible.

CHUCK GOMES: Michele, go ahead.

MICHELE NEYLON: Yeah, I think Heath has a couple of interesting points there. Just bear in mind we're still looking very much at the minimum public dataset. So I think some of the other data elements you mentioned would definitely not fall within that.

But, yeah, you are -- no, you're right. I'm not going to disagree with you. I mean, I disagree with you often enough anyway. But, no, on this one, I think it's -- what we're trying to do is -- within

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the working group, is look at the registration data elements' purposes. And this was the subtle thing between the collection and the -- what was the word you used, Chuck?

CHUCK GOMES: The access.

MICHELE NEYLON: The access, thank you, collection and access. So the access is completely different.

As Stephanie puts it, as a registrar, you collect the data in order to registrar a domain name. You don't collect the data in order to give it to law enforcement.

Now, an academic isn't going to be collecting the data. I mean, they're not a registrar. So I'm just -- I can understand where you're coming from. At the same time, I don't really see it as being a major issue, unless I have misunderstood you completely.

CHUCK GOMES: So I'm going to let David respond next, but let me point out that when we get into specific data elements is where I think we're really going to have to dig down in what you're talking about.

So your concerns are very legitimate, but we haven't -- other than this minimum public data set, we haven't dug down deep enough there, but your point's well taken, that we -- we need to - - I don't think there's any intent -- at least I haven't heard anybody in the working group suggest that we should be letting law enforcement and researchers and everything to find -- tell us their purposes and then we have to fulfill them.

So your point's well taken and we're going to have to dig down on that further.

Now, I want to make sure -- I think there are several in -- with Mic Number 1, and make sure you have Kavouss, because -- yeah, you have him -- good -- in there. So who's next in Number 1?

Sorry. I said I was going to let David respond and then I ignored him.

Go ahead, David.

DAVID CAKE:

Yeah. I just wanted to briefly respond to that point about the collection versus access to the data and say that point has been discussed several times in the working group. My understanding is sort of we didn't dis- -- we didn't distinguish that at the start for, I mean, essentially historic reasons because the EWG report

did not make that distinction, but we are very well aware of it and anticipate that by the end of the work, we -- end of our work, we will have sort of gone back and revisited the difference between access and collection, and we are well aware that, you know, you can't just -- you can't -- ICANN can't just demand that the data be collected because someone would like to do research on it.

But once we have the data, you know, it will be legitimate to look at it.

CHUCK GOMES:

And just one more follow-up there.

As I think Stephanie said pretty well, in our last meeting it was clearly pointed out by several that you need to distinguish between access and collection, and your point that that -- it's really an access issue, that actually came out in the discussion on -- in our discussion last week when we were talking about that, but it will -- it will be dealt with further.

Let's go back to Mic Number 1. Who's next there?

WAHKEEN MURRAY:

Hi. Wahkeen Murray from the government of Jamaica.

I'm struggling a little bit with the nomenclature that is being used. It speaks about minimum public data set, and by "public," the interpretation is that the data set is open to the public, yet we're having a discussion about -- well, not the reason for collection, but the question before this on the other -- the previous slide was should it be accessible.

And if we're going to be having a discussion around access and then try to specify whether or not someone can access for any purpose or only a specific purpose, then we may want to look back at the use of the terminology, "minimum public data set." Just an observation, but I really think that nomenclature gives the wrong impression, if we're going to then have a discussion around who can access, if it doesn't mean everybody can access.

CHUCK GOMES:

So when we say "minimum public data set," it's just what it says. It's a minimum set of data -- which that minimum may increase over time, depending on our deliberations -- but it is publicly available without any authentication of the person. So you can go to it just like WHOIS today, okay? And you don't need to get it authenticated. You don't have to specifically set a purpose. But in terms of policy, as we're seeing in some of the regulations like the GDPR, and in the recommendations of the EWG because they -- they recommended a purpose-based approach, we from a

policy perspective are going to have to make sure there's a legitimate purpose for collecting it, and then we're going to have to deal with, on a case-by-case basis, whether there is a legitimate purpose for access.

Now, in the case of the minimum public data set, we're saying right now, yes, there is a legitimate reason for collecting the data that you saw on that list there.

Am I missing something there?

WAHKEEN MURRAY:

I get the point about the collection and I don't have -- the issue is not with what is collected. And I hear you and would completely agree and understand -- well, let me say just "understand," rather than "agree" -- that the group is trying to determine for what purpose you collect, and that's not where I'm having the issue.

And it may come up, as I said before, with the question that was brought up but not -- we didn't spend a lot of time on it. When you say it's accessible by who or by whom, that is where I think the nomenclature may run into problems. Because if you say to me that we can collect this minimum data -- and I'm going to exclude the word "public" for now -- minimum data and it's going to be used for -- it can -- and the purpose for which we're

collecting it is for all these 13 purposes, then the question then becomes an access issue. Who is it accessible to? And if I see the terminology "public data set," I assume that it's open to every single person, irrespective -- and it doesn't become a purpose issue, necessarily, unless we clarify that.

CHUCK GOMES:

Yeah. The -- you're correct. That's what "public" means, okay?

The -- what I tried to say earlier, and I think maybe what others have said, is that we, though, from a -- from an ICANN perspective, and what we're looking at, some of the regulations, some that have been passed, some that may be in the future, and if we use a purpose-based approach, we're going to have to, in our policy, ultimately make sure there's a legitimate purpose, okay?

In the case of the minimum public data set, we're saying, first of all, you saw these conclusions that there is at least one legitimate purpose for each of them, and therefore, we've covered that base and there is a need for -- there is reason, then, for collecting it, okay? We can justify that with some of these new regulations, okay?

So we're saying, yeah, it could be publicly accessible.



Let me see what I'm getting here.

UNKNOWN SPEAKER: (Off microphone.)

CHUCK GOMES: Oh, we've got some remote questions now too.

The -- let's -- I mean, I'm not sure we totally satisfied that, but hopefully you get the gist of where we're at.

And so let's take the two more from -- because they've been waiting for a long time, I haven't been watching the queue, but we have some from Amr, too, so let's finish the Number 1s here.

JORDYN BUCHANAN: Thanks, Chuck. It's Jordyn Buchanan with Google again. So I have a question and a comment. The comment, perhaps informed by the question.

The question is: For each of -- I guess I'm struggling, similar to other people, in sort of like linking the minimum data set to these purposes.

It's not at all obvious to me how these purposes relate. And in fact, in many of the cases, like when Michele talked about the

fact that, like, his company didn't know anything about Google.com, that's probably true. It's probably also true the registry itself doesn't know very much -- like, VeriSign probably doesn't know very much about Google.com either. And so the only way I can conceive of this making sense to, like, get in touch with anyone with Google.com is if you presuppose that there's some other data being displayed, like contact information, which is not in the minimum data set, that's somehow accessible when you work down the chain.

But I think we're not supposed to be assuming that. We're supposed to be just assuming that the minimum data set itself is somehow useful for these purposes.

So I'm -- I'm mostly just struggling at the moment, so what I'm wondering is: Is there some rationale linking each of these purposes to the minimum data set that we could go and look at?

You know, I presume you guys had to put together slides that we could all read and Laureen wouldn't complain too much about, so I'm wondering, you know, is there more substance here that I could go look at instead of just complaining at the mic. And then I do have an actual question to -- or comment to follow up with.

CHUCK GOMES: So we actually -- thanks to Andrew Sullivan, one of our working group members, and then some contributions by others, as well as input from the EWG report, we actually have a table that provides rationales for collection and for access of these data elements.

We could -- I mean, that's public information, so we could certainly make that available to you.

JORDYN BUCHANAN: So I guess I'm just trying to link it up specifically. So that rationale would say, "Academics need -- could use the minimum public data set in this manner. That's how we -- you know, that's how we imagine the rationale"?

CHUCK GOMES: I think that's accurate, yes.

JORDYN BUCHANAN: Okay. Great. So just the comment, then, is to -- is to maybe echo -- or try to bring together a few things that we've been hearing about, you know, not allowing some of these things to be rationales for collection and so on.

I think it would be really, really helpful for you guys to try to focus on primary reasons for collection. I think I've heard people that know about the GDPR say that that's -- the primary reasons are the ones that are -- that are the important ones in terms of the rationale. But in any case, just from a design perspective, once again, thinking about what's the motivating reason for publishing this -- not, like, what could it be used for, but, like, why are we doing this in the first place? I think that would be -- I think that would be a lot more helpful than just publishing, like, a big list of, like, conceivable uses for the data is, like, you know, if you were going to start over, if we were starting tomorrow and said "Let's build a DNS system," like, why would we want to collect this? And there's probably a few really good reasons, hopefully, that we can articulate, and I think it would be really helpful to be able to set those out clearly and not have them sort of cluttered up with all the sort of ancillary reasons as well.

CHUCK GOMES:

Thanks, Jordyn, and -- it's Chuck again. Let me say that in our last meeting -- and we didn't get far enough to make this a rough consensus conclusion, but with regard to collection, the one thing that there was strong support for -- again, not measured enough to make it a conclusion, a tentative conclusion yet -- domain name control was the one that everybody -- or most

everybody -- again, we haven't measured it yet so I can't say -- conclude too much -- was one for collection that kind of went across the board, and that was -- you know, I think we just ran out of time and didn't get to see if there was enough agreement in the -- for those on the call, so we're going to have to revisit that.

But -- but you're right. We need to get there.

Okay. Go ahead.

KAVOUSS ARASTEH:

Thank you. I have one suggestion and two comments on 9 and 10.

Academic DNS research is not necessarily public interest DNS research.

Why you have put them together with oblique stroke or slash? This sign has different meaning and different application in different -- for different people. Sometimes it can be seen as alternative to each other. Sometimes it means as a combination to others.

Perhaps one suggestion would be if people like this, you separate them. Academic DNS research is different from the

public interest DNS research. Perhaps consideration to separate them.

And the question or comment two is "regulatory" and "contractual." Contractual usually involve regulatory. Why you put regulatory and put "and contractual"? Do you consider that contractual, including regulatory, would be one or not?

And the last one is the appearance of the word "collection." Do really -- or does really it's needed to have -- is needed to have this "collection"? Because sometimes may not be collection. May be, as somebody people said, access and so on and so forth.

And one editorial. You don't need to repeat "minimum public data set collection" in every item. You put it at the top and delete it at the rest to make it more shorter and more visible. Thank you.

CHUCK GOMES:

Okay. I'm not necessarily going to cover those in order and others can help me on this. But one of the people in the back of the room suggested earlier that we separate the regulatory and contractual. I think we took that as a constructive suggestion. So I think that, you know, we will decide that as a working group. We don't have time to do that here. But that probably is already going to happen, I would predict. Okay? I can't speak

for the whole working group, but we could do this -- I don't know, does anybody see any objection to doing that with number 9 as well, of separating those the way he suggested, any concerns? Again, like Lisa explained, these were the way they were presented in the EWG report, and we really didn't spend time -- we didn't have any intentionality in lumping them together. We took the way they were lumped. And again, why we're having this session is to get suggestions like that. Now I'm sure I missed something that you said. Somebody want to -- go ahead. Rod.

ROD RASMUSSEN:

Rod Rasmussen. So could we quit talking about the wordsmithing of this list? We did this in EWG so we could fit it on a graph to present to meetings like this, so that we could get all the words on and you could actually read them. That is why they're grouped. It was simply for logistics. So each one of these is a separate element. And so if we could move past the lumping here, that would probably speed things up. Thanks.

CHUCK GOMES:

Thanks, Rod. Is there anything else there, Kavouss? Thank you very much. Before we go back to number 1, let's go to Amr.

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AMR ELSADR: Thanks, Chuck. This is Amr, and there are two questions from two remote participants. The first one by John Berryhill. "If contractual enforcement refers to the registration contract between the registrar and the registrant, then it's not clear why that should be public data. If I have a contract with Mr. Gomes to buy me dinner, then the only persons with a need for the contracting party information are me and Mr. Gomes. What sort of contractual enforcement is that phrase meant to imply? Contracting parties generally know each other by definition."

Would you like me to also read out the second question or --

SUSAN KAWAGUCHI: So the EWG considered use cases in that the contractual enforcement, the UDRP was what we had in mind for contractual enforcement. So in that case it's not just between the registrant and the registrar but all of the UDRP language is required to be in the terms of service of the registration agreement is -- relates to the contractual enforcement is a legitimate purpose.

CHUCK GOMES: And if I can jump in. I hope I'm not off base on this -- and this is Chuck speaking -- the contractual enforcement would probably also include registry agreements with ICANN and registrar



agreements with ICANN so that that could come -- that would probably be another application of contractual compliance. I'm not -- I think -- I don't think -- unless it violates some consensus policy or something, I don't think that this was intended to tell registrars how they enforce their contracts with their registrants except to the extent that those things would be part of their agreement with ICANN, like that. So I don't know, maybe -- maybe John's right, that we need to be more specific, but again, I think Rod's right. We're going -- we can refine some of the wordsmithing on this later. But just to -- I think John's right. I don't think there was any intent, I don't recall us ever discussing that. I don't know about the EWG. Some of the members of the EWG can tell us that they were really trying to get into the enforcement between a registrar and its customer. Okay. Amr, what's the second one?

AMR ELSADR:

This is Amr again. The second question is from John Bambenek. "When some people talk about collection it is through the lens of what is necessary to convey a domain name from a registrar to a registrant. ICANN's mission is keeping the Internet secure, stable, and interoperable, which is far more broad. Is it necessary to limit the scope of what we can consider to more economic transaction of registrar to registrant because the more

broad definition includes and justifies many of the things we are talking about in terms of purposes. There are some classes of transactions where additional information is required to be collected for law enforcement purposes, even in regimes that have strong privacy protections."

CHUCK GOMES: I heard a question there, but I'm not sure it's very much of a question and more of a statement. If somebody thinks differently, please help me out there.

AMR ELSADR: Would you like me to -- would you like me to read out the question within the statement here?

CHUCK GOMES: Sure.

AMR ELSADR: It's, "Is it necessary to limit the scope of what we consider to be the mere economic transaction of registrar to registrant." That's the --

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CHUCK GOMES: Michele.

MICHELE NEYLON: Thanks, Chuck. Michele for the record. That's not really what we're doing. I mean, stating that you collect data in order to transmit a domain name to registrant isn't entirely true. In order for the domain name to resolve on the Internet you need to transmit data to the registry. And, I mean, you also need to add data to name servers. There's a bunch of other things going on. I mean, trying to break it down and make out that it's purely an economic transaction isn't really accurate. Now if the question which is really being asked is more one of should law enforcement -- law enforcement purposes or anti-abuse purposes be a rationale for collection of extra data, then that's something I'm sure we can discuss. I think we have been discussing. But I'm not -- but the way the question is phrased -- the question is phrased I'm having a bit of difficulty addressing. Unless somebody else has any thoughts on it.

CHUCK GOMES: Does anybody else want to add anything to that? I'm not sure I can help, before we go to the next person in queue. And Amr, did we cover those? Okay. And I'm sure John may not be totally

satisfied, but I think there's not clear understanding of that on our parts. I apologize for that.

Let's go back to mic number 1.

WENDY SELTZER:

Thank you. Wendy Seltzer here. And it's been a long time that this debate has been going on, but dipping back into it here, I wonder, it looks like a very broad set of minimums here whereas I think when we distinguish between collection and publication of data, we should be looking at the minimum required data for collection and the minimum set of uses that we are delegating ICANN to demand of registrants and those participating in this system. So many of the items that I see on this list appear to be of interest but not why we put ICANN in the position of -- of potential interest but not why we put ICANN in the position of collecting data, including academic interests, including also though legal actions. We're not asking ICANN to be a party to legal actions. We're asking ICANN to collect data to facilitate the operation, secure stable operation of the Domain Name System. So I'd look to minimize the collection of information as much as possible. Thanks, Wendy. And, of course, that's why we use the term "minimum" in this new title that we're using for thin data. Certainly there wasn't unanimity on these, but again, like I shared earlier, we, in our last meeting, didn't quite reach

conclusion because we -- we were looking at lots of these things for -- for collection when in fact many people said they may be legitimate for providing some parties access but like you said, maybe not reasons for ICANN to collect the data. So that's something we're going to -- we will be pursuing a little bit further in that particular area. Again, the one area that there seemed to be pretty broad support for, not measured yet, is domain name control for a legitimate collection reason. And it could be, I'm not predicting this, but it could be that that's what we end up with reasons for collection. And then once the data is collected, we may decide, like Stephanie said, that here's some legitimate uses of that information that's being collected for domain name control, or whatever we conclude. Let's see, I think number 2.

UNKNOWN SPEAKER:

Yes, hello. My name is Leah Symekher with NARALO ALS. I think many of my concerns have been mentioned here in terms of security and privacy and, you know, just the fact that ICANN is going to data collection and, you know, data accessibility. We're living in a time of big data, so hopefully you're not moving towards that direction and being, you know -- if I was an end user just coming and seeing all that there, I would be very frightened for myself. So we hope that the policies that you come up with -- and I'm sure that will be made public -- that we

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would be able to define more of a protective -- and I know you have a lot of stakeholders you have to satisfy, but hopefully that will be more protective all the way through from the end users to the contracted corporations and all that.

And then to Rod, thank you for mentioning -- for trying to get the conversation moving forward, but honestly, if academic and public, including regulatory and contract is mashed together, you need to tell us beforehand that this is just for whatever. Efficiency purposes? But as guests here, that is very confusing. So I'm glad that everybody here was able to bring that up. Thank you.

CHUCK GOMES:

Before you sit down, I'm going to have a follow-up question. You'll see the example of the minimum public data set up there. You said you had some concerns. You were looking at that list of ten or so statements there. Do you have any concerns that -- like you expressed with regard to any of those data elements.

UNKNOWN SPEAKER:

Sure, if you can go back, I could -- I mean, definitely. Like someone mentioned, like if you can get to -- and I'm not an engineer as such, but if you can get to most of this data, let's say the registry or registrar, the Nameservers and all that, I mean, all

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this will lead you eventually to WHOIS having that information. You might not be directly you, but if you're put in a corner by some government security force, you'll be able to get into that person.

CHUCK GOMES: And that argument has come up in the working group, but couldn't that be true of anything? I mean --

UNKNOWN SPEAKER: Yes, I guess it is. I mean, I'm just saying let's just maintain what ICANN --

CHUCK GOMES: So maybe we shouldn't show anything.

UNKNOWN SPEAKER: I don't know what ICANN stands for. What will be helpful, what will not be helpful, including when the WHOIS data discussion began, I thought it was more to help with cleaning up the data and make it more accurate as opposed to building something completely new, and I could be completely wrong.

CHUCK GOMES: Well, we're going to get -- we haven't even gotten to the issue of data accuracy yet. That's in our charter, but we will get there. So -- but basically what I hear you saying is, we shouldn't display anything. Because you can always use something, combine it with other things, and get data. Is that what you're saying?

UNKNOWN SPEAKER: Well, I can't speak for everybody in that sense. But whatever is going to be helpful and wouldn't put anybody at risk, given whatever part of the world you're in --

CHUCK GOMES: Even if it's needed for domain name control?

UNKNOWN SPEAKER: Um, well, that was mentioned as one of the -- as you say, a very sensitive issue during your group meeting. So I guess it is. Domain name control is important, because people could capture that.

CHUCK GOMES: And that's pretty much where we're headed, I think. That for domain name control these elements are probably pretty well supported, even though like you say, you could take them and



combine them with other things and eventually but again, maybe we should eliminate the Internet. And I know that's not what you're advocating.

UNKNOWN SPEAKER: No, that's not what I'm advocating, and I would say this is going to grow, too (indiscernible).

CHUCK GOMES: Thank you. Thank you, appreciate that input.

And we have another one. And we're going to have to wrap this one up and move on to the next category; okay? So a couple more, and Stephanie, I'll get you. Is there anybody else waiting in the queue? There was one -- Wasn't there one back in the back? Maybe not. Should we go to Stephanie? Okay. Stephanie. Go ahead.

STEPHANIE PERRIN: Yeah, Stephanie Perrin, for the record.

I just wanted to clarify for the lady who was up at the microphone, I think one of our goals, once ICANN finally has a policy on WHOIS and the minimum public data set is restricted, yes, there is a sea of data already out there because of the value-

added services that have been basically gobbling up WHOIS data for years. Those guys -- then the first question a data Khmer asks them when investigating a complaint is, "Where did you get the data?" Because they're no longer scraping it up from ICANN.

So this puts ICANN, at least, in a position where it is managing its data responsibly, and the ability to cross-link is reduced. It will take a long time, but it will get reduced.

Thanks.

CHUCK GOMES:

Thanks, Stephanie.

And just a quick ICANN comment. I've heard several people use the term "ICANN." For the purposes of this PDP, we are ICANN. Okay? We are going to recommend some -- possibly make some recommendations about requirements. And then if it goes further, policies. And then implementation. And then it would move up the chain to the GNSO. But for the purposes of what we're doing, we're ICANN, guys. And that's why we want all of you involved. Okay?

All right. I think that's good for this.

This -- This set of items doesn't lend itself well to a red card/green card approach, so we're not even going to try that.

But the feedback has been excellent, and it's all being taken in. Some suggestions were made for edits, and so forth, so thank you very much for that.

Let's go to the next category. And I think, actually, Greg Aaron and I have this one.

So if -- We can go to this, but I'm going to let Greg do it because I talked too much already.

GREG AARON:

Thank you, Chuck. This is Greg Aaron. I'm participating in the working group in my individual capacity. Among other things, I'm a cybersecurity researcher and do work for the Anti-Phishing Working Group as a volunteer. I've been a registry operator, and so I've provided WHOIS from that perspective, and I'm a consumer of WHOIS data, or registration data as we should call it.

So the next question is should TLD registration data in this minimum public data set be entirely public or should access be controlled?

The agreement is, number 20, gTLD registration data in that set must be accessible without requestor identification, authentication, or stated purpose.

So what this means is the group has decided that this set of data, those -- those thin fields as we previously referred to them, should be available to whoever would like to look them up. And whoever that is does not have to identify who they are, they do not have to go through some form of authentication, and they do not need to tell the server or the entity behind the server why they're looking it up or what their stated purpose is.

To put this in context, the real tough issue that this working group is working on is around contact information. Personally identifiable information. And that involves privacy law, and that's the hard thing.

What we decided is the information other than the contact information, basically, has a lot of legitimate uses, which we have listed in our documentation and which the EWG also went through, and we basically decided that to make people jump through hoops and do these things is not what we want to do. It is very difficult to list all of the purposes that people might have. And also creating requestor identification or authentication systems for this data, at least, also raises perhaps more problems than it solves.

This data we do not feel has a lot of harm when it is to be released or at least not harms that outweigh the benefits in the legitimate purposes. And then collecting information about

WHOIS -- you know, looking up the information and why creates a set of privacy problems itself. And so we are going to avoid that problem.

Now, we then go on to 21 which says that there must be no RDS policies that prevent the RDS operators from applying operational controls, such as rate limiting and CAPTCHA, provided that they do not unreasonably restrict legitimate access. We've gotten to a certain point on agreeing about this.

So let me explain what this is about. If you're a registry operator or current a registrar and you provide a WHOIS service, and let's generalize that and say an RDS service, you have to meet certain performance goals, and those are stated in your ICANN contracts. If you're operating one of those servers, it has to be up most -- or all of the time and it also must be responsive so that people out there can get the information. And so operators don't want to get into situations when -- where their services are compromised, basically by too many requests. An effective denial of service attack, either purposeful or accidental. And these things do happen on occasion. People overload the servers with requests. And so operators do rate limiting. What they do is they say if I'm getting way too many requests from a particular IP address, I may clamp down on how much I'm serving back to that. That is designed to provide the rest of the

Internet with the opportunity to continue to do queries. So that's what rate limiting is.

CAPTCHA is when you do basically -- you do this on a website, and you're required to prove that you're a human. That's -- Rate limiting is about servers. CAPTCHA is about Web pages.

Now, what we're saying here is the information needs to be available. The operators need some leeway to make sure that it is available. We have some words in here, "Do not unreasonably restrict legitimate access." So rate limiting is used as an excuse not to provide the data to the general public. So that's a little background on what that is.

So to summarize -- and, Chuck, I'll ask you to add anything else I've forgotten -- we're saying that this public set of data is, we think, acceptable and legitimate to publish, and the public, whoever you are, you should have access to it, and without particular restrictions on why you're going to look at it.

CHUCK GOMES:

Great job, Greg. The only thing that I want to add, and he made a little reference to this kind of indirectly, if you look at what's in the brackets at the end of that, there's an action item that's still pending, and it relates to that term or that phrase, "do not unreasonably restrict." What does that mean?

We have a couple of people that volunteered to work on that; okay? And they've spent some time on it. They've gone back to ICANN. Rod's one of those. I don't think V.A. (phonetic) is here, but he's another working group member. They were working on it, and they went back to ICANN to see if we could get some help there in terms of how they've handled that kind of terminology.

Rather than continuing to spend time on that right now, we have decided, with regard to the minimum public data set, that that's one of I think about four issues that we're going to kind of punt until the second iteration of all this. We know it's got to be dealt with, but we felt like it was better to move on, and especially to take advantage of this public meeting today rather than to continue to get bogged down in the meaning here.

We believe, in this case, the meaning is important, and we're going to have to deal with it, but we're punting it for now until we can maybe get a better handle on it later on. And we certainly didn't want to spend time in this meeting debating that. We think it can be spent better.

Greg, go ahead.

GREG AARON:

And one last note. When you look up WHOIS information right now, there are also some terms of service associated with it. In

other words, we haven't really gotten to this in depth yet, but there might be some limitations on this. For example, right now, the terms of service say you shouldn't look up contact information to be used for bulk, unsolicited email. In other words, don't mine WHOIS so you can send spam.

So we may discuss a list of situations in which this data should not be used and that they might end up being terms of service somehow. So that's something we have not gotten into yet, but it may be on our agenda.

CHUCK GOMES:

Thank you very much.

Okay. We're going to open it up for comments, questions right now. So, please, indicate either in chat or in -- in the room -- if you're in the room, if you'll let the -- even if you have a mic, let the mic holders know so that they can get you in their queue, and then they won't have to bring you a mic. Other people will need a mic.

So someone for mic number 1. Let's start there.

WENDY SELTZER:

Thanks. Wendy Seltzer. And I think Greg may have addressed part of what I was thinking about with the terms of service



comment, that -- but we might make it even clearer that the fact that we're not asking a regis- -- an accessor of data to state a purpose for accessing public data doesn't override the limits elsewhere, such as, for example, in privacy law on uses that they might make of that data.

So ICANN is saying, in displaying information, while we won't ask for the requestor to state a purpose, that doesn't mean it is, nonetheless, available for any purpose a requestor might be able to dream up.

CHUCK GOMES:

Thank you, Wendy.

Well, this one we might do a red/green card. So are you ready? Let's -- We've got the two tentative agreements up there. Understanding that more definition needs to be given to "unreasonably restricting," okay, that's turned out to be a little tougher than we thought, but we're committed to dealing with that when we make our second pass through this stuff, so...

If you're reasonably okay with these two tentative conclusions at this point in time -- and that's the way we look at it, too, "at this point in time," we may change later, but would you raise a green card.

Give you a chance a little bit to think. I didn't ask for red cards yet, Stephanie. See, I have to be on her case all the time (laughing). She's a great contributor.

UNKNOWN SPEAKER: Stop picking on the poor Canadian.

CHUCK GOMES: All right. Green cards down.

How many of you are not comfortable with both of these?

Okay. All right. Thank you. Okay. Gives us a sense of the room.

And again, it's reflecting the sense of the working group, really. Okay? I don't know that -- there may be one or two where we kind of near had unanimous, but almost always there's been some exception.

All right. Let's go to the next group. And we have David and Vicky. Which one of you is going to kick it off?

DAVID CAKE: Vicky, you happy to kick this off?

VICKY SHECKLER: I would love to, but the next slide is questions 22 and 23 on gated access, unless you think that was already covered.

GREG AARON: I think Chuck and I still have to do this one.

DAVID CAKE: Yeah, actually. Gated access --

CHUCK GOMES: Oh, one more. Oh, I forgot we had two slides. Chair error. Go ahead, Greg.

GREG AARON: Okay, thanks. This is Greg.

So the question is what guiding principles should be applied to the minimum public data set access? Agreement number 22 is at least a defined set of data elements must be accessible by unauthenticated RDS users. This is kind of reiterating what we saw on the previous slide. And 23 says RDS policy must state purposes for public access to the minimum public data set.

So what this means is our group says that this set of data should be available publicly, but what we have to do is state some of

the reasons why. What are the legitimate purposes? And for each of the fields involved, we must document why we think that and some of the uses involved. So we have to document our work and explain why we have decided what we have decided and why each of these fields has a legitimate use and some examples of that.

Anything else, Chuck?

CHUCK GOMES:

No, that's good.

And he made a really key distinction -- Chuck speaking again -- is that RDS policy, which we'll get to in phase 2, must eventually state purposes that we're allowing this public access for. But we're not, again, requiring an individual who is accessing it to state their own purpose like that. That would be quite a challenge to even pull off. But that's what this says. Okay?

Any questions or comments on 22 and 23? Kavouss.

KAVOUSS ARASTEH:

Yes, just a clarification. Who decides about does define "set"? Somebody decides that? These are the defined sets that could have access and these are not to have? This is just a question. Thank you.

GREG AARON: So the working group has discussed each of these fields and has discussed the set.

Okay. This is Greg again.

So you asked who has defined these sets.

KAVOUSS ARASTEH: Yes. Who decides on the sets?

GREG AARON: Yes.

KAVOUSS ARASTEH: It says "defined sets." That means among those sets, defined sets. Some of them would be required not to have any authentication.

GREG AARON: Can we go back to Slide 14?

Basically the working group has discussed these, and the working group has decided. And if you look on Slide 14, that's the set that we've come up with so far.

CHUCK GOMES: And, of course, the working group will ultimately make recommendations. It will go through the PDP process and so forth. But Greg's absolutely right on that.

Any other questions or comments? Okay. Red/green cards again. We're going to start with green. Stephanie, hold off.

[ Laughter ]

Oh, it's going to be green. Good!

So how many of you are reasonably comfortable with 22 and 23, raise your green cards, please. Okay. Put those down.

Red cards for those who maybe have a little bit of a problem with either of these. Wow. That's pretty good. I don't know if we did that well in the work group, did we?

[ Laughter ]

Okay. Thanks a lot. Let's go to the next thing. Sorry for jumping the gun earlier. I think I got my slides out of order here.

So let's go to the next working group, and I'll call on David and Vicky again. And I think it was going to be to you, Vicky, is that right? Thanks for setting me straight on that.

VICKY SHECKLER: Hi, it's Vicky Sheckler. I was asked to read this question and draft agreements.

So, again, for the minimum public dataset, which we just saw that's on Slide 14, which does not include registrant contact details: Do existing gTLD registration directory service policies sufficiently address compliance with applicable data protection, privacy and free speech laws about the purpose? Again, minimum dataset and purpose.

The draft tentative consensus conclusions were that the existing gTLD RDS policies do not sufficiently address compliance with applicable data protection, privacy and free speech laws about purpose again with respect to the minimum public dataset. And, second, that as a working group, we need to agree upon a purpose statement for the RDS, noting Number 16 through 19 in the Statement of Purpose.

DAVID CAKE: So we had quite a bit of discussion about this because it has to be understood quite specifically that we are talking about "purpose." And while you might think that there are not major problems with the minimum public dataset, it does not interact with -- its limit on privacy law -- its effect on privacy law is quite

limited because it doesn't contain any personal information. But, still, the fact that it does not -- the existing policy doesn't really state a purpose means that we are collecting data in a way that we can't really explain why we're doing it under data protection law which means it's still kind of legally problematic and then questions about, you know, can ICANN force, you know -- should ICANN be forcing retention of that data and who gets access to it and still become difficult to answer because we don't have a defined purpose.

So we're not saying that the co-existing policies are dramatically in conflict with the law. I mean, it may be the -- more or less the same substantive position on this minimum data could be kept while if we just were very clear on what the purpose is of why we're doing it. And then conflicts with the law may be resolved if there was clarity.

That may not be true, but we certainly haven't got to that stage of identifying exactly which conflicts with law might exist, just that we simply -- we don't think we meet that standard yet.

We certainly went back and looked at how we arrived at this agreement, and there was an awful lot of discussion -- that was in context of discussion about purpose.



So we are hoping that when we do create a purpose statement that, you know, we can -- that we can -- new policies, which may not be very different to the old ones, but new policies can address issues about purpose.

Now, the other question we have about this is -- we are looking at these legal analysis to really address these -- the ways in which existing policies may conflict with data protection law. We already have some answers from data protection authorities. But we want to go further, so the working group is pursuing independent legal analysis.

So we had to do this in a -- a bit of a hurry in order to address -- in order to meet -- get it done by the end of the financial year because there's money allocated in the budget to do it that we weren't sure if we were going to use until relatively late.

And we have gone through a process where we asked several members of the working group who were experienced in contracting law firms with work of this nature to assist us with a choice. We reached out to several law firms who we felt -- staff felt were appropriate choices for assisting us. We got several responses.

We are not going to say which law firm we have chosen to use because we have not finalized the contracting process so it's not

quite yet public. But we're reasonably confident that we have a choice that it was a firm that was -- the choice of provider of legal services was supported by several members of the working group from a range of -- across a range of stakeholders. And we will be contracting further legal advice in order to address exactly how compliance with applicable law.

The legal advice will not simply be in respect to the minimum public dataset. I mean, really will the minimum public dataset questions are not going to be the really difficult ones on data protection and privacy.

So we are expecting that fairly soon we will be able to make public who we have selected as the law firm to assist us. And we'll be sending questions to them which my understanding is similar but not exactly the same as the questions that we have sent -- previously asked of data protection authorities as an initial starting point. And we should be able to clarify some of the legal issues significantly in the near future.

Do we have any questions?

CHUCK GOMES: It looks like we have a question from Number 1. That Number 1 mic is getting good use over there.

TED HARDIE: Ted Hardie. Forgive me. You gave a long explanation of the legal consultation which sounds like a great idea, and please go forward.

But I wanted to go back slightly because what I understood the conversation prior to this point coming up to be was that for the purposes of data collection, the critical data collection purpose was the operation of the Domain Name System and that the registry and registrars' participation in that system required them to have certain pieces of information.

For access to that information, there's a whole set of different questions. I just want to confirm that here we are talking about the collection of information for the minimum public dataset associated with that purpose.

And if I understand Number 14 correctly, what I hear the working group saying is that the current policies are not sufficiently clear that that's the purpose.

Is that correct?

DAVID CAKE: I mean, that's my understanding, that it's not explicit. And there are some -- and as a result, there are some issues that may not

be strictly outside the operation -- strictly inside the operation of the Domain Name System as it may be unclear in any case. For example, retention of data beyond the point where it's being actively used.

GREG AARON:

And this is Greg Aaron. You had mentioned operation of the domain name as the primary mover. But we should also remember that registrars collect information for other purposes, not just the operation.

For example, this is a business relationship involving a contract. So they need to collect the name of the party they're doing this contract with.

So I'm not entirely sure that the one you discussed is the only one applicable. Thank you.

CHUCK GOMES:

And this is Chuck. And I'd like to point out that 14 doesn't say that we have a tentative conclusion that it's not clear. We're actually stating at this point, we may change that. We're actually stating that existing gTLD RDS policies do not -- we're saying do not -- sufficiently address compliance with the data

protection, privacy, and free speech laws and we are aware of them right now. We're going to get more awareness as we go.

So we're not just saying it's not clear, we're actually making a tentative conclusion -- and there's some that disagree with this in the working group -- that they don't even with respect to the minimum public dataset.

Kavouss.

KAVOUSS ARASTEH: Yes. On Number 14, I have no problem. But my question is after that "and," what to do?

CHUCK GOMES: You're jumping ahead to next steps. We'll get there, okay?

KAVOUSS ARASTEH: Danke vielmal. Thank you.

CHUCK GOMES: You're welcome.

[ Laughter ]

Any others? Yes. Edmon, go ahead.

EDMON CHUNG: This is Edmon. Just a strange question maybe. What are the existing gTLD RDS policies?

CHUCK GOMES: And while I know you know them, go ahead.

[ Laughter ]

Go ahead, Michele.

MICHELE NEYLON: This is Michele for the record.

The policies at present are -- well, sorry. The contractual obligations at present are both in the Registrar Agreement and there's other ones in the Registry Agreement.

The issue here is that there's no real purposes apart from a very kind of wishy-washy, squishy "you need to do this in order to register a domain," which doesn't really hold up to the light.

So what we've been looking at is going into that in detail. Okay. This is a data element you need. Why do you need it? This is another data element that you're collecting. Why do you need it? I'm going to data element by data element.

As Greg points out, there's a ton of data that a registrar might collect and does collect which doesn't fall into this and never will.

EDMON CHUNG: I understand that part. What I want to point out is that maybe the wording there shouldn't be "existing RDS policies" but "existing registries and registrar contracts," something like that.

CHUCK GOMES: Helpful suggestion, Edmon. Thank you. Number 1.

VICKY SHECKLER: This is Vicky Sheckler. Some concerns that I have with this statement are: One that we talked about, what exactly are the existing RDS policies, so thank you for that.

Second, again, we're talking about a very minimal data set, so, you know, how does that apply?

And then third, there was a comment for this poll that talked about ICANN contracts already require statements of purpose for collection and publication of registration data. I don't know if that's true but I think it's something that we ought to explore as we consider, you know, and test this hypothesis further.

And then lastly, when I reviewed the documentation about this discussion, we talked a lot about privacy and a lot about purpose. I didn't see the discussion there about free speech, so I think that that's something we ought to explore a little further as well. Thank you.

CHUCK GOMES:

Thanks, Vicky. This is Chuck again. And as I recall, one of the reasons for supporting this was -- and I'm with you on the question about whether it does give a purpose, because as I recall -- and others, please help me out on this -- one of the gaps in the existing policy is it really doesn't define purposes, the way I understood it.

Now, you're right, we should research that. If it's there, you and I both need to know that, right? Because I'm with you on that, so -- so...

Any other comments on this? Yes, Amr.

AMR ELSADR:

Thanks, Chuck. This is Amr and I have a question from Steve Metalitz. "Regarding the working group tentative agreement number 14. If Number 14 is the tentative conclusion, in what way or ways are existing policies insufficient?"



CHUCK GOMES: So I'll let others jump in on that. This is Chuck. I just gave one that Vicky kind of pointed out, unless we're wrong, in that certainly the existing policies don't clearly define purpose, which we think is going to be necessary.

Stephanie, go ahead.

STEPHANIE PERRIN: Far be it from me to hold us up here because I understand there's beer somewhere and people probably want to go find one.

The problem with 14, from a data protection lens, once again, is, no matter how small the data set and how innocuous and whether we would agree to release it, the general data protection requirements apply. And I know we had a very lengthy fight over whether, in fact -- "fight" -- exchange of views on whether or not it was personal information. From a data protection lens, it's personal information if it relates to an individual's domain name registration, regardless of whether it has my name in it or any other identifier or how easy it is to link it up.

So taking that lens, then if you haven't explained adequately the purpose of your collecting the data, then you are in -- in default, and if you haven't explained what you're going to do with it and the possible uses, et cetera, et cetera, how you can remove data, then you're not in compliance.

That's one big piece.

And then the data protection commissioners have been, for 17 years, telling us how ICANN doesn't comply, and one of those is the purpose specification. They liked the purpose specification that came out in 2005-2006, in there, because it was very technical. But they've been saying ever since, "We need a purpose so that we can even analyze this."

So that -- if you don't have a purpose, then you haven't met sort of square one, which is why we need a purpose. Thanks.

CHUCK GOMES:

Thanks, Stephanie.

Okay. I'm going to wrap this one up. A quick -- quick red card/green card.

How many are relatively comfortable with these two tentative conclusions?

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Green card, please.

Okay. Not surprising that this is a little tougher one.

How many are not comfortable with one or both of these?

Okay. So it's kind of a mix on this one. Okay?

So it may be that we -- I don't know if we -- we'll talk about it as a leadership team in terms of how we want to deal with that feedback. This -- that was kind of a split in -- at least in the few people who responded.

So we had stronger results in the poll that was done on these a long time ago, and that's all documented, if you want to see any of that.

All right. Thank you to the -- all the great contributions for sitting through all of this. We're going to wrap up in just 5 or 10 minutes. We should be on time.

A few -- few wrap-up items like what Kavouss asked: What's next?

And so if we can go to Slide 27, which is up there already, you know that our main objectives was to get input from those of you who are not part of the working group today, while at the

same time allowing working group members to share their thoughts.

And so the face-to-face working group meeting on Wednesday -- okay? -- you're all invited, and we will be spending a little bit of time talking about the feedback we got today, and we'll continue that discussion in the weeks ahead, but we really are hoping to start getting beyond the -- what we're calling the minimum public data set so that that should be kind of interesting.

We're hoping to spend a bigger part of that session on Wednesday on that.

Anything else on this slide that somebody wants to comment on? Michele?

MICHELE NEYLON:

Thanks. Yeah, Michele for the record. I suppose just to remind people that, you know, you -- the working group is always open to new members. There's multiple ways of participating, obviously, not just as a member or observer of the working group. That, you know, we do welcome in- -- you know, constructive input. It's actually how we get things done around here. Thanks.

CHUCK GOMES:

And most of you have representatives in whatever interest group you're in, or stakeholder group, or constituency or whatever. Keep in touch with them and make sure they keep in touch with you to keep you informed.

Now, I'm going to do one more poll, okay? So get your cards ready.

But before I do that, I want to ask all of you to express, by applause, appreciation for all of the people that are spending an incredible amount of time on this.

We've touched the surface here today, but these working group members have been meeting every week, and following email, and debating and arguing and contributing constructive suggestions, and I think it would be very appropriate for everyone here today to just express your appreciation.

You may not agree with all of them. You probably don't. Probably none of us do. But they're committing a huge amount of time in this effort, and hopefully you've realized today the complexity and the subtleties and trying to find the balance and so forth.

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So would you join me in thanking all those who have committed to be members of this working group?

[ Applause ]

CHUCK GOMES:

Now, as I said at the beginning, it isn't just for us. We're -- we've reaped many benefits from your input today, and it will affect our work going forward, but we really hope that this -- even if you didn't make an audible or visible contribution, that this session was useful to you. And I don't want you to be dishonest. We're not looking for praise for something. It will help us in terms of how we design future sessions like this if we get your honest feedback here.

So we're going to do green cards first.

If this -- if you found this useful, the way we did it, and the information, would you put up a green card?

Okay. I --

MICHELE NEYLON:

I think Maxim is colorblind.

CHUCK GOMES: If you didn't find it useful, would you put up a red card?

Maxim, why are you putting both?

MAXIM ALZOBA: Maxim Alzaoba, for the record. Actually, I think that this meeting was quite useful for those who are -- do not participate in this group, and it was just a usual meeting for those who participate, so it's both.

CHUCK GOMES: That's fair, but keep in mind cross-community sessions are for that purpose and that we as a working group need opportunities and there will be a variety of forms that takes, where we need to provide opportunity for input, and we only get three face-to-face meetings a year and this is during a policy forum, so I think it's justifiable to spend the time focusing on those who are not part of the working group. So I'll be defensive on that.

Okay?

All right. Now, to learn more, if we go to Slide 29 -- and these slides will be made available if they're not already. I think they're probably already available. They're already available, okay?

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So where do they get -- where do they find all these links, Lisa?

LISA PHIFER: These links here --

CHUCK GOMES: Yes.

LISA PHIFER: -- or the slides from today?

The slides from today --

CHUCK GOMES: Well, the slides from today and these links.

LISA PHIFER: Right. So the slides from today are available on the agenda page for this session, both at the bottom of the abstract page as well as the agenda page.

CHUCK GOMES: And going to Slide 30, which brings us to an end, thank you very much, and you can see the contact email and the Web site URL there. Again, much appreciated, have a good rest of the week,



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and we hope to see you at our face-to-face working group meeting on Wednesday.

**[END OF TRANSCRIPTION]**