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SAN JUAN – Middle East Space  
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TIJANI BEN JEMAA: This session will start, please take your seats. Come to the table please, come to the table. Okay, wonderful.

Good afternoon and for our remote participants, good morning, good afternoon, it depends where you are. Today it is our second Middle East Space. You remember we did our first one in Abu Dhabi and it apparently worked very well, that's why we decided to make this second one. The subject or the topic that has been chosen by the community, by you, was the compliance of the WHOIS Data with the GDPR. Farzaneh, who proposed this topic, was the pen holder of the statement and now we have a statement, you will see it, it will be distributed.

So, I would like to welcome you all here and welcome our guest speaker, the first guest speaker, the CEO of ICANN, Goran Marby. Also, I would like to welcome Thomas Rickert who will be one of those who has introduced the topic in this session. Since Goran is very busy, he has only 15 minutes, I will directly give him the floor after giving the floor to Baher who will make the introduction or the opening addresses. Thank you.

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BAHER ESMAT:

Thank you, Tijani. This is Baher Esmat for the record, I am with ICANN Global Stakeholder Engagement Team. Welcome to the second Middle East Space in Puerto Rico. I'm very pleased to see this practice of the Middle East Space continue. We started in Abu Dhabi and I'm particularly pleased with the energy of the Middle East Strategy Working Group in taking lead in organizing this session in a bottom up manner.

The whole process the Tijani and the team started to decide on which topic to discuss and then develop the agenda and come up with a draft statement and a multi stakeholder and a bottom up manner, I'm very pleased for that. The topic today is of course very important. The UE General Data Protection Regulations and I'm glad that the Middle East community is paying attention to such important topics and to engage in such discussions at ICANN. Without further ado, I'll turn it over to Goran Marby, President and CEO of ICANN.

GORAN MARBY:

Thank you. Thank you very much and I'm very happy to be here. First of all, I want to tell you something, that we had a GDPR session in the -- it was morning, wasn't it -- and I got a question from Steve, and we're going to add that on Thursday.

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Somewhere along the light, at the end of the public forum we will add an hour for more of a deep dive about GDPR, to be able to answer some of those questions that you also bring up in your letter because we've done several of them but this is not an easy exercise because it blends a 20 year old WHOIS discussion with legalities and I want to point out that anyone who says that they actually know exactly how this law is going to be enacted is probably pulling your leg because we don't know.

So, you have to take a step back. Six months ago, or a little bit more than six months ago, eight months ago, we started a process about GDPR and GDPR is a law. Usually in this extent there is sort of a negotiation of implementation of policies with ICANN and we have processes for that. What we don't have is a process how ICANN Org as a entity could be compliant with the law. I made a joke one, a bad one, that it's like asking the community to do my taxes.

It's been a fantastic process in that sense, that we during a very short period of time not only invented a process, we opened up, for instance we got your input; the first thing we did was the sort of foundation, which is the user cases we asked you for. We hired an external law firm, Hamilton, that you can also ask your questions through and we got a lot of input from different parts of the community about what they saw.

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And that was important because one of the things we did during that process is to make the case for the WHOIS system. We'd gone through this line where we started out, and I said that I think the GDPR will have an effect on the WHOIS system, checked. Went out and said that ICANN will be some sort of data controller, checked. We received communications from the DPA's, saying that they inclined to us to what we call at tier access model, check. We presented three different models and asked for comments from the community and we received several and we took that into account and presented a hybrid solution.

Here's the catch, and this is a real catch. Legally, I have to make a decision. There's no way I can avoid to make that decision at one point in time because ICANN Org as an entity has to be compliant with the law. Right now, all the discussions we are having are slight theoretical because we don't know what the DPA's will say. That's the sort of strange thing with this law as well because it's a two-sided law. It's a behavior law, it's about how we behave.

I'm going to repeat one of my jokes because I still think it's fun, I call it the mother in law because when I was teenager and my mother said that I could go out if I behaved. I did behave and apparently, she had a different view of my behavior than I did.

That's really this content of the law. It wants to train us to think differently about privacy versus the need for information. We've been very careful of stating that we know, we know exactly how the end's going to be.

But thanks to the ICANN community, and I say very much thank you for the ICANN community, we arrived at a model which funny enough, nobody agrees with. I don't know if you saw the presentation this morning, you can debate if we done everything wrong, if we put everything in the right place but it shows there are diversions within the community.

One thing that the community actually agreed upon, which I know it's been discussed for a long time, is the tiered access model. It's going to be shown something and then it's going to be some kind of wall and then someone will access that information. That is actually 80% of the question, that's 80% of the whole riddle of this discussion and I give back to the community to say that you agreed on that, actually makes the legal case.

Now we're in the situation which we talked about six months ago, eight months ago, and we reached that point. Someone actually said to me a couple weeks ago that one of the things that you have to understand, Goran, is that when you out and you say you have a plan and then you actually do what you said

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you're going to do, that surprises many people within ICANN and we have surprised. We have followed strictly what we said we're going to do, more or less on the time we said so. Now, we're still uncertain because we need to get from the DPA's of Europe some sort of knowledge, how they're going to use the law after the law is enacted. Otherwise that would lead to a fragmented WHOIS.

Remember, my role is not to judge between the different sides, I have two role sets. One of them are the policies that are set by the ICANN community which you see in the contracted obligations we have. Unfortunately, we don't have a WHOIS policy, we have never done the work of balancing the right to privacy with the need of information, we don't have that document but we have in our contractual obligations several points that says how to do things when it comes to the WHOIS.

We have actually sorted a lot of that out during this period but we have not reached the full consensus of it, that's why I say the model you're seeing it's what we believe, to our understanding, what the law says. We distributed misery evenly. I sort of take pride in the fact that everybody for different reasons have different view points on the model.

The truth now as I said is that when the law actually really starts, what's going to happen? Because one of the technical things of

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this is that I won't be able to enforce our contracts where we don't know the law. We don't have a process for that. There's no policy that comes. If the DPA's and we have a good conversation with them, really good conversations with them and I'm really respectful of the work they're doing but if you can't get enough clearance from them before the end of May, we will see a fragmented WHOIS because there is no way I can force them, the contracted parties, to fulfill the obligation set in the contracts, which means that we can't ask them because it would be legal uncertainty and for ICANN Org as well. That will increase the fragmentation of it.

This pointing is important and the discussion you're having are important but remember that some of the questions you raised to me, it's now time to raise to the DPA's. What we've don't, I don't know if you read the cookbook and again, we call it a cookbook but is a recipe for a pizza. That cookbook also contains many of those questions that we don't have an answer to yet, that comes out of what you say. We have meetings with DPA's already booked and we will be sent those things, without judging if they come from side or another side, just to make sure that we get as firm answers as soon as possible from the data [inaudible] authorities in Europe.

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The most important ones now are they or the governments because data protection authority actually belongs to a government and we are lucky to have GAC representation, governments here in this meeting as well. Don't only talk to me about what you think I'm doing wrong in the models, also talk to your GAC representatives and let them talk to European ones. I said today, go and hug your GAC members. We're often seeing GAC as something different from outside. This is a vehicle for us that we can use in a sense, it's a direct connection to governments and I think we're going to use that one.

What we're trying to achieve is between a rock and a hard place. I have to take into account previous decisions by the community. You have the absolute right not to have to do that when you do things for me, but I have to follow that rulebook.

Is this the end of this? No. One thing we know, if we now succeed to come up with a model approved by the DPA's, we will have a misfit between the current policies set by the community and what we from ICANN Org can enforce through our contracts. I don't think that that's a very good situation. What we need to do on the side of that or actually what you need to do, is to go back into policy making process and further the discussion in light of the GDPR because the GDPR is the first time ever that I know of that a legislation has a direct effect on our ability to



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make policies and I think we can't have misfit between the policies I can enforce and what is decided by the community. To have that discussion about the balance between the right to privacy and the need for information.

But it's not over there yet. There are many countries around the world that is now looking into different GDPR solutions. I see a trend of this, not because I think people are bad or evil, I think that elected politicians realized the internet is here to stay and has an effect on society, for good and for bad. What they do then is they look into the things that does work and they try to figure way through their powers, which is legislated proposals to do something about it. That's what we're seeing. That's why we see so many new proposals about GDPR.

In Europe right now, there is one piece of legislation that they're discussing called E Privacy, which is sort of the extension, not legally but it's sort of an extension of the GDPR discussion and I promise you that we will come back here fairly soon to talk about if there are implications on the E Privacy on our policy making process.

We are actually working on a document, through the multi stakeholder model where we can engage many people from the regions, from around the world, where we asked them to provide us with information about potential legislation and E

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Privacy GDPR bracket and soon as we got that assembled going to publish it for you to know. It's good factual base coming into the discussions and there are purposed ones and maybe if you're in ISOC or something, that's something you would like to engage in. ICANN is a nonpolitical organization, we don't take sides on discussions in the first place.

One of the things that have been discussed a lot is the accreditation. If you have a tiered access model, you need to have some sort of accreditation. Our understanding so far, I'm very humble in this, the DPA sees ICANN as a self-accreditation model, which means that if we actually would accredit ourselves, that would be very close to self-accreditation, that's our understanding, we could be wrong, we are asking them the question.

Governments seem to trust government and therefore we have asked or purposed or are starting to discuss a model where the governmental advisory committee is involved, not operational. What we asked them to do and I understood that there's been a lot of confusion about it, there is a paper about it if you'd like to read it, all countries around the world makes decisions about their own police forces and they send that list through the GAC to us. They have the telephone number to the GAC because it's actually governmental members who sits in GAC. It's a very easy

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avenue for them to make sure that we get that information and we provide to the contracted parties.

The other part is what we try to say is that there could be other legitimate purposes for having access to the WHOIS system and there we will ask the GAC or starting to discuss with the GAC that they provide what we call a Code of Conduct because there has to be a Code of Conduct or something that writes down why is this purpose legitimately for access to that information.

Then organizations should sign up for the Code of Conduct but someone else outside should check the actual behavior. In interactive property for instance set a might whip could take care of that. I know that some people have said it's changed the stature of the GAC, I look at it differently. I look at that we now have a vehicle that can help us in this and we're not asking the GAC to be operational, that's the different point of view.

Unfortunately, I have to leave, we have some name [inaudible] to fix, but if there are any questions to me, please ask them now. Thank you.

TIJANI BEN JEMAA:

Okay, Hadia.

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HADIA ELMINIAWI: What I understand, a key element here is the balance between the legitimate interests and the rights of the subject data. Do you know how this is going to be implemented?

GORAN MARBY: No. Let me expand. ICANN Org doesn't intervene in the discussion between the balance. If I may go out of line for a second and say, this is what we should have done in the multistakeholder model but for reasons I've been hearing a lot about for the last six months about this, we have not been able to do that. It maybe shows how hard it is to do that balancing. I've only one task, which is between what I think, what we think is the model for compliance with the law and what is said by the community previously. These are my laws, I can't invent a new policy. I can't disregard a policy. I have to figure out this in the middle. The balancing, that's you.

TIJANI BEN JEMAA: Thank you very much, Goran. Thank you especially for this presentation of the process, you presented it very well and I think it will help us very much to understand better. For your information it wasn't understood that you are going to the governments through the GAC, I was in a session and I said that and they told me no, they said the GAC is the GAC. It seems

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there is a document that you distributed in which it is written the GAC cannot the governments through the GAC.

GORAN MARBY:

Communication exists when the receiver understands what you say. I think we that we communicated enough. We have something called the Government Advisory Committee which uses the word governments in the beginning and I'm actually looking from this from the DPA's side instead. Forgot the open WHOIS, just for a moment say that the WHOIS doesn't exists right now because we sort of compare the accreditation model to an open WHOIS.

Since that the accreditation model adds another line and the accreditation model to the tier access would be due process, which means the police forces and everyone else would like to access to it, have to go to a court. That's a model, we talked about that model as well. Here comes my problem, which might not be your problem, is that because of the policy set by the community I have to move myself a long that line up to somewhere else.

If we are for instance in civil society and you want strong rules about this, of course you like what we call the model three and that might be what the DPA says, we don't know that. If I take

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the Berlin paper it says that they will not trust ICANN to do accreditation, I think they state that somewhere bluntly. That means if we want to have accreditation and if we want to try to achieve an accreditation that is farther away from the due process, where would that end? Probably within governments. So that's what we come up with.

It's going to be sliding along this line and we need to get that from the DPA's. I know that some people think that I'm trying to take sides in it, I'm actually just trying to fulfill the polices together with the law at the same time. Not the easiest one I admit but that's what we're trying to do.

It's also at the other end of this, I said that this morning, it doesn't stop there, what happens also, the people that get access to it have to have a contract, a statement what they're going to use for that data. They can't just go in and use the data for whatever they want, they have to have a purpose for using that data and therefore they sort of get smitten by the GDPR legislation as well and that's a very interesting concept that we're now looking into as well. We are already some sort of a data controller, so we can't add the risk, we use some of the data ourselves but think about it, ICANN Org enable to do the work we do in OCTO, have now to produce a legal course for getting data so we can do compliance.

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It's not easy for us either. But I think someone who sits in -- for instance are working with cybersecurity, antispam, also have to think about their organizations, about how they're going to get access to the data and what responsibilities they have when they actually have the data.

TIJANI BEN JEMAA: Thank you, Goran. I will take one question for Goran, especially about the process because he spoke only about the process. For your information he told me that he has a lot of comments on our statement and it is about --

GORAN MARBY: I didn't say that.

TIJANI BEN JEMAA: You told me.

GORAN MARBY: No, I didn't say that

TIJANI BEN JEMAA: Anyway, but it normal, I understand. He said there is a lot of misunderstanding and this is normal. It seems that he is

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perhaps -- he has other commitments, so if there are questions for Goran, please go ahead.

GORAN MARBY:

Could I make a statement here? I fight for anyone's rights to have any opinion they want but also I hope that I can have your respect about the limitations of what I can do and I think I personally and some of those people know that I actually called up people from different sides of the community and asked them, "Provide me what you think, even if you think I'm an idiot." I didn't really say that but probably take that from the record but you might think that I'm an idiot by the way; then it's on the record.

TIJANI BEN JEMAA:

Thank you, Goran. Any questions? Okay, go ahead.

ELSA SAADE:

I'm currently in the Executive Committee of NCUC representing the Asia Pacific Region. I just wanted to comment something very, very small, that maybe Goran it would be important, I don't know, to keep in mind for the rest of this meeting and for the future, having worked with several human rights defenders in the Gulf and the Middle East generally and having seen the



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implications of surveillance and access to private data on their lives, we shouldn't forget that behind all those technical terms and all those processes there are stories of people who are real and who can through obscene amounts of violations because of us if we don't keep them in mind.

I reiterate your metaphor actually about a motherly law or behavioral law, we should keep in mind that my kind of motherly law or in the Middle East generally, it could very easily be used against me, violating my very, very basic human rights, through access to unneeded information.

For instance in Saudi Arabia is lashed 1000 times, sentenced to lashing 1000 times for a blog. [Ahmed Mansour, who's in the UAE and we had Abu Dhabi last time, did we mention him, he is currently being sentenced for simply speaking out loud. Nabeel Rajab from Bahrain, same goes to him, tweeting online about certain issues about freedom of expression, he's also being sentenced to five years in jail.

Keeping them in mind, those same governments have access to info that could target so many more if we give them private information. This is public information and there are already so many violations against them, what about if we're giving them private information? I just want to highlight the importance of terminology going forward. Keeping our context in mind and

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making sure that those stories that are overshadowed by the presence of governments and businesses and these spheres should be heard as well and that's why I'm here and I'm so happy to see other CSO representatives over here also to discuss these issues. I just wanted to put that out there on the table.

GORAN MARBY: Thank you but you've given me more powers than I have.

ELSA SAADE: Of course, I know the limitations, I'm just putting it out there. Maybe you could keep it in mind going forward.

GORAN MARBY: This is very, very important for me personally. I can't talk, if I walk up to the mic and say, I want to talk in this personal capacity and not as CEO of ICANN, you would all laugh at me. I don't have the right from you to have that discussion. What you were just talking about belongs in the ICANN community in the multistakeholder model. I have a lot of my own opinions about this and across this table there are representatives from different interest groups and I think it's important we assemble those.

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I would have loved, to be honest and I think I said I this before, there is a failure in the system where we couldn't do that balancing after 20 years of discussion. Actually, WHOIS preexisted ICANN, it's been around since the birth of ICANN. I hope that I've been -- and I've been talking about this for such a long time -- I hope now the community can come together and make that balancing between the right to privacy and the need for information because they are good causes.

I can give you another argument and that is when you receive a spam who leads to infection of your computer who leads to DDOS attacks. There are things that this information is used for that actually you benefit from as well. I think there is no other place in the world that is better suited for having this conversation then within the ICANN multistakeholder model, with all its different views but it's important for me -- and it's not because I don't want to show leadership, it's not because I don't want to be part of it, it's important that the role I have is respectful of you because you are the parliament of me. Go and change it if you want to. Thank you very much. I have to leave unfortunately.

TIJANI BEN JEMAA:

I would like to thank Goran very, very much because he always comes to our space, he always takes the time to talk to us and to

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address the topics that we choose. Thank you very much again and I hope -- I will say one word about the GDPR. You said in another space, in an African space in Abu Dhabi that the GDPR is an opportunity for ICANN and I absolutely agree with you because ICANN have been discussing this issue of WHOIS data since the inception of ICANN and we never found a consensus because there are two main values.

One is transparency, the other is privacy, and behind the transparency there is a lot of interests and behind the privacy there is other interests and those interests are very, very strong so that the community in ICANN couldn't find a consensus and this GDPR obliged ICANN today to find a solution before May. It is really an opportunity as he said. Thank you very much again and I hope the next meeting space you will be there also.

GORAN MARBY:

If you invite me, I will come, you know that.

TIJANI BEN JEMAA:

We will, thank you very much. Now to our second guest speaker, Mr. Cherine Chalaby, ICANN Chair of the Board. Cherine is from our region, he's from the Middle East and he always comes when we invite him. He also told me that he has very few time to spend with us and I will give him the floor immediately.

CHERINE CHALABY:

Hello, how are you doing? Last time you invited me in Abu Dhabi I found the discussion really invigorating. As I said, it's like coming back home, this is where my roots are, so I'm always delighted to be with you, always delighted to hear that you are tackling very important issues because as I said last time, our voice from the Middle East has to be heard worldwide. We don't owe it just ourselves, but we owe it to generations to come. We need to improve, particularly in the Middle East the digital economy and the digital environment so that we all benefit from the socioeconomic growth, not for ourselves but also as I said to generations to come.

I haven't prepared a speech about any detailed topic. I don't know how many of you were in the opening ceremony, probably spoke quite a lot about many topics, happy to take questions. I know you've just heard Goran on GDPR, no point me going through the same points again. But I may give you a perspective from the Board on GDPR, which might be a slightly different, different flavor but not a different perspective.

The Board is fully supportive and 100% behind the efforts made by our CEO, by Goran and his team. Thanks really the community for all the efforts that was put in to coming up to where we are now, with an interim model that is in the hands of

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the DPA's and the community. We look at this into three buckets, the interim model, the accreditation program and the implementation mechanism. We look at from a risk perspective particularly. Which one has what risks profile? Which one will be accepted? Which one will be rejected? Which one will work? Which one will not work?

So, you've heard Goran talking about the interim model and we know that this is so far is the cumulative effort of putting together many, many models. It's not going to be pleasing everybody. We believe that there are still five many difference and I know that Thomas is here and I heard you this morning in the discussions. It is a very, very difficult situation, it's not that easy. You're not going to have the perfect solution ever. I think the Board is very, very happy and pleased with progress. We are hoping that the DPA's will provide guidance because that obviously will be in everybody's interest if they did so.

In terms of the accreditation program, you know that there are discussions that are taking place with the GAC and I heard also Thomas saying, if you did that you change the role of the GAC and so on and so forth, I hear everything you say about the topic. It is clear that it is unlikely that by the 26<sup>th</sup> of May, this is a personal view, that you're going to have, even with the GAC, a

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full system in place. If the DPA's provide guidance, we will need to have some interim accreditation model in place.

Then you come down to enforcement or implementation, I don't like using the word enforcement and there are different rules we can go. We haven't really made up our mind and discussed because we are waiting to see what's happening. There are various rules, one of them is through interim polices or interim specifications.

As you know, the contract with the contracted parties allows us to make some temporary polices, these can only last for three months and can be renewed three times but I believe at the end maybe it can be extended. Another one will be a way for program, not through polices through a different mechanism. There are various things and there are risks associated with each one of them. But we're not there yet. We're waiting, the evolution of what's happening with the DPA's and that's quite important.

This is where we stand, nothing is straight forward, nothing is guaranteed. There's a lot of risks in everything we do and we sincerely hope that the DPA's will step up to the mark and provide guidance, that will be frankly the best thing for all concerned. Then at least we know where we stand and we can

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more forward and we know there are differences and we have to work through resolving differences together.

I said this this morning, that there are massive challenges ahead of us and we have to work, the Board, the community, ICANN Org together as a team and that's the only way we're going to overcome our challenges. There's no other way in my mind. I'm going to stop here and then maybe take a couple of questions.

TIJANI BEN JEMAA:

Thank you very much, Cherine. You answered -- or not you, Goran, talked to Thomas when he spoke about the GAC, he said, "No, it's not the GAC, it's governments through the GAC." But it seems that it is not clear for everyone and it seems that even your documents are not clear enough about that. If you have any questions to Cherine, he has also a very few time. Please, Nadira.

NADIRA ALARAJ:

In a way I will be away from the GDPR and its interim model I'm picking on the one word about the differences on this model on ICANN .Org offices in Europe in contrast to the rest of the world, how that will be affected.



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CHERINE CHALABY: I'm really not sure I understand the question, I'm sorry. Are you talking about ICANN internal systems?

NADIRA ALARAJ: Exactly.

CHERINE CHALABY: That's a separate track from the WHOIS track. Goran again has his team, they're all working on that totally separately. Did he not address this with you? I don't know the details to be honest with you. We know that a lot of efforts been doing, we're getting regular updates and we feel confident that that is not an issue as an ICANN as an organization from an internal point of view rather than a WHOIS point of view.

TIJANI BEN JEMAA: Thank you. Another question.

HADIA ELMINIAWI: My question is related to --

CHERINE CHALABY: I'm sorry, Theresa Swinehart is behind me, she said she can answer on behalf of ICANN Org a little bit on that point.

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THERESA SWINEHART: We have done an assessment with all the departments also that have touchpoints with the community in order to make sure that we have a good understanding of the kind of data that's being collected, doing an analysis and then also taking the steps in order of priority to make sure that we have as much in place as possible by the timeframe. We have very strong process underway within the organization with regards to that.

CHERINE CHALABY: And our plan is to be complaint by 25<sup>th</sup>.

THERESA SWINEHART: To be as close to complaint as possible, there's many different moving parts, as a result also prioritizing the areas that require the most attention immediately.

NADIRA ALARAJ: Can I ask a follow up of this?

THERESA SWINEHART: I hope I can answer.

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NADIRA ALARAJ: Then there will be difference between the process of procedure are documented in Europe, different then the offices in other Singapore and LA?

THERESA SWINEHART: I'll need to check on the details and get back to you. We would obviously want to be as efficient as possible in streamline so we don't have different systems in different places but I would have to get back to on the details of that.

TIJANI BEN JEMAA: Thank you. Hadia.

HADIA ELMINIAWI: My question is related to the implementation of the interim model whatever it is, would it be implemented globally or only to those registries or registrars that have data of European citizens? If it can be applied -- that it is not going to be globally, that means that you will be having two models running in parallel, two different models running parallel?

THERESA SWINEHART: As you'll have seen in the document that had been posted, the grid, on that specific issue area with regards to the applicability

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of it, and I'm just pulling it up, the model may be applied to the European economic area, it must be applied to the European economic area but it may be applied globally subject to the data processing agreements between ICANN and the contracted parties. This is still an area under discussion on the posting of the interim one and of course any feedback with regards to that would be most welcome.

TIJANI BEN JEMAA: Thank you. Another question from Farzaneh.

FARZANEH BADI: In the corridors when I talk to people and the people in charge of actually complying with GDPR in Europe, they say that DPA's normally don't really give guidance and even if they give guidance, it's not something that is certain. This instance on listening DPA's seems to be a little -- I don't think this will happen. The other thing is that I don't know why ICANN does not just take a very restrictive approach to being compliant with GDPR and then come up with the shared access afterwards when we have time and it will not get fined and then we will come up with a tier approach and everyone will be happy.

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**THERESA SWINEHART:** I think you were having a dialog with Cherine actually, the chairman of the board. I don't know, many of these discussions and comments specifically with regards to the details of the GDPR are also an opportunity during some of the public sessions. To this particular one, the model that has put out is for discussion, it is a proposal of an approach to take to aim to be complaint with regards to the WHOIS related aspects in GDPR in time for the May timeframe.

There's obviously still some areas that are under community discussion and some areas that we had flagged in the what we refer as the calzone document, that are still open questions for the community and others to provide input in. I don't want to deviate from your opportunity to also be engaging with the chairman.

**TIJANI BEN JEMAA:** Thank you, Teresa. Okay, Wafa, not too much in the details, please.

**WAFI DAHMANI:** No details, just a clarification. We are speaking about the implementation but I heard in the morning that there is a proposition and it will go to the community for comments and it will go the PDP process. Why we are speaking actually about the

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implementation? It's not yet the stage for the interim document.

**THERESA SWINEHART:** On the implementation area it is only in the context of the interim model itself, not in the context of the RDS working group and the longer-term policy that the community is actually discussing and that's a policy with a big P, that is the reference there.

**TIJANI BEN JEMAA:** Yes, because the PDP is a long process, it's a community process and we have to comply in May, so that's why there is this interim model. Yes, Christine please.

**CHRISTINE ARIDA:** I would like to make a comment for a change, not a question. Being someone that has not been heavily involved in ICANN but has been coming and going and watching through time, as time goes by I really am amazed to see how the ICANN community and ICANN Org is dealing with the GDPR issue because really such a complex issue, it has come in a short time I would say, relatively short time.

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I know WHOIS has been discussed for so, so many years but now there is a problem at hand the community is really doing great job and this is just a comment. I'm sure there is solutions will come along. I would really like to say thank you to ICANN for that, really just comment.

TIJANI BEN JEMAA: Thank you for your comment. Is there any other questions for Cherine? I hope that it is not in detail. Go ahead, please.

UNKNOWN SPEAKER: [Inaudible] from Egypt. Just a question, will ICANN be able to meet the deadline on May for GDPR or not? Do they have a backup plan if they didn't meet the deadline?

CHERINE CHALABY: I think everything has been set. We are waiting for guidance from the DPA's, and the direction after that will be clear once we receive -- my understand is somewhere around the end of March, they say they will give some answers. Thomas, you probably know -- you don't know? So somewhere around the end of March. We should know by then and then I'm sure that Goran will communicate to the community about which way to go after that.

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TIJANI BEN JEMAA: Thank you. Do we have other questions? Okay, no other questions. Okay, Cherine.

CHERINE CHALABY: I know the GDPR is occupying everybody's mind and Goran is the formal spokesman on behalf of ICANN and also as a Board member on behalf of the Board, hence I'm a little bit reticent to get into details myself because I think I have to respect what we agreed between us but you should know that we're absolutely 100% supportive of Goran and Theresa's effort and very pleased with the community's involvement. We have to say thank you to everybody for their involvement with that.

I think that is the strengths of our community, we have differences, we have as I said this morning even public discords, but that's fine, that's the major ingredient of our multistakeholder model, that's why we're so unique and that's why we have an open system of democracy that brings everybody -- and at the end, the solution takes longer for a solution but it's going to be much more sustainable and a bigger buy into that.

So please invite me again. Next time I hope we'll talk about something other than GDPR but I'm delighted and we always



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make time to come back to my family, put it this way. Thank you.

TIJANI BEN JEMAA: Cherine, I invite you to stay with us and to listen to our discussion, it is very important, if you have time.

CHERINE CHALABY: But you are talking about GDPR. I'm afraid I can't, I really can't. Thank you so much, much appreciated. Thank you.

TIJANI BEN JEMAA: Thank you very Cherine, it is really appreciated that you always come to our invitation and you never said no. Now we are in the Middle East, but I made this same work for Africa and always invite Cherine and always Cherine comes.

CHERINE CHALABY: And will always come.

TIJANI BEN JEMAA: Thank you very much. Thank you for your time. Now to the work. First of all, we will make a short introduction of the topic and we invited for that two persons, one is not invited he is part

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of the house but the invited one is Thomas Rickert who is Director of Names and Numbers from the ACO. Thomas is very knowledgeable about the GDPR and I think he's the most to speak up about this topic so we invited him and he will first introduce the topic from his perspective.

THOMAS RICKERT:

Thanks very much, Tijani. I guess for me the biggest challenge is not GDPR but making a statement limited to five minutes on this topic. Thank you so much for the invitation to come to this event. I think Stephanie Perrin made a very important statement this morning by saying that it is unfortunate that we have to discuss a European law, we should rather talk about human rights.

I think this helps us to put things into perspective because we have two different interests at both ends of the spectrum, there are the interests of the data subject, their personal data, their lives being at risk in case there are doing something that violates local laws or where they are operating undemocratic environments and then you have the interests of law enforcement, the security industry and others who want access to WHOIS database in order to fulfill their mission.

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Both of them are right and who could be against saving children or preventing fishing attacks on something like that but I think what we need to do is try to be complaint with applicable laws and GDPR seems to be the law amongst the privacy laws that are either existing or immerging around in many. Many countries, seems to be amongst the strictest. If you are complaint with GDPR, you are most likely complaint with many, many other privacy laws around the world.

We have the issue that there is a system that was open for many, many years and everybody took for granted that it would remain to be open. Although data protection authorities have said for many, many years that they system is currently offered is illegal and I will limit my comments to the WHOIS part of GDPR and certainly GDPR is far broader topic so we would need to talk about what is collected in the first place. What data is escrowed, what is the role of the emergency beacon operator who can get access to data and all that.

But let me talk only about WHOIS for the next few minutes. Why there is a lot of progress ICANN proposed interim model and the cookbook, this document is still very patchy because it basically just has some headings in there and the expectation of ICANN seems to be that they send this to the DPA's and they will fill in the blanks. I think that this expectation is going to be

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disappointed because the DPA's will not do the whole work of ICANN of the contract parties as data controllers. This is something where I think we all need to work with ICANN in order to inform ICANN to come up with a model with a revised version of the cookbook that has more details in it than it currently.

Again, let me make this abundantly clear, the cookbook is huge improvement to what we say earlier, there are a lot of very good things in it and Goran said that everyone was unhappy with it, I'm not amongst those. I praised ICANN for what they've done but there's more work to be done. To illustrate this everyone talks about gated access, everyone talks about legitimate interests but they're throwing everything into one big bucket of accredited users that would get access to data that is behind this firewall or behind this gate but we need to take a very nuanced view at this.

We have for example, trademark lawyers or others who want to check whether the criteria for URS or UDRP proceedings are present and that needs to be looked at completely differently than if law enforcement wants to get access to data and then yet we need to make a distinction between European law enforcement authorities which have another legal basis as non-European law enforcement authorities.

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Then we have the trademark community, what data can they get access to and on what legal basis? Then we have the request for bug access. Reverse look ups. Look ups of historical WHOIS data or as we used to call it Who Was; so that data, that still needs to be looked at differently. Then we have the security industry that needs that data for their investigations and to be quite honest, a lot of governments are relying on private organizations intelligence for their own intelligence services.

As you can see we have a lot of WHOIS customers that want the data for different purposes and everybody's just talking about the purposes and WHOIS is such a great resource but as the European Commission has pointed out in the recent communication, you need not only a purpose but also a legal ground and therefore we need to spell out the legal rationale for who can get access to what in a very detailed manner and then we need for a different rationale for the trademark industry verse law enforcement verses those who want to engage in URS or UDRP proceedings, just to give a few examples.

Now what we saw recently and this is what makes things difficult, the Article 29 group has told ICANN what they shouldn't be doing. They said very little and very vague things about what could potentially be done and then we have the governments, the European Commission as the GAC who are afraid that this

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resource of information will not be as available as previously and they're now asking ICANN and the contracted parties, to keep it as open as possible but then they have another half sentence and say but yet we expect you to be in full compliance with GDPR and the applicable national laws.

They're not telling us how it can be done and how these different interests can be reconciled. I think we should be pushing our GAC representatives and I think Goran is spot on in saying we should have them, maybe some of you don't want to go as far as having your GAC representatives, I might prefer inviting for a drink or something but we need to educate them, that if they come up with these requests, based on probably the law enforcements wishes, they need to come up with legal explanations that can be used by ICANN and the community to further populate what's currently in the cookbook. This is what we're missing.

In summary, what we saw with ICANN's document is great progress, it's still too patchy and we need to encourage ICANN to put more flesh to the bone with their legal advisors and based on the community input they got in order to spell out what can and what can't be done but we also need to push the governments to offer more legal advice on what can and what can't be done. Whether the Article 29 root can be the only

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resource, I'm not sure, I think we should be asking the governments because the Article 29 group are deeply hazed and those are independent of the government. I think I should pause here. It's been slightly longer than five minutes, thanks for bearing with me.

TIJANI BEN JEMAA:

Thank you very much, Thomas. We want you to speak more in fact because it's very interesting what you are saying. Since we don't have unlimited time. I invite you to stay with us if you don't mind, so that during the discussion you may give some light.

Regarding the GDPR, Thomas, has very tough requirements regarding data collection, regarding data storage, data processing and data retention, are you in Europe, is there a -- did you have an implementation plan or an implementation guide for those GDPR elements?

THOMAS RICKERT:

I guess all the bigger contracted parties have sought legal advice and they're working on the implementation of a post May 25<sup>th</sup> plan. I think everyone is still hoping for ICANN to come up with an interim model that they can then use but they're working on their own solutions and in the absence of ICANN coming up with

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a profound robust model, they will do what they think is required to be compliant. I guess there's no silver bullet solution.

I think the answer might partially lie in what Farzaneh has said earlier. I think a lot of the players will take a more conservative approach to start with and as we get guidance from the Article 29 group and from government as to what can be done, then you can loosen things up. Ideally, we would get guidance from the DPA's and we've actually put in writing several questions to them, so we hope that they're going to be responsive and help with this, yet I'm not certain whether they will actually be as forthcoming as we hope them to be.

TIJANI BEN JEMAA:

In fact, I wasn't speaking about the WHOIS, I am speaking about the GDPR, the data protection in general because it not only applied to the WHOIS.

THOMAS RICKERT:

Correct. There are a lot of unknowns because the GDPR has several opening clauses, where you don't exactly know how this is going to be filled with life by the DPA's and by court rulings but many, many legal advisors as well as consultancy do have companies to be compliant with their employee data, with their



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customer data to make their internal systems complaint and also to make their external complaint.

TIJANI BEN JEMAA: Thank you very much. Now I will give the floor to Farzaneh who was the Middle East space person who proposed this topic and who was also the pen holder of our statement. I will give her the floor to introduce the topic.

FARZAHEN BADI: Thank you, Tijani. I suggested this topic and got support on the mailing list because not only it is being discussed at the moment in the community but it is something that affects a privacy protection of aq domain name registry, and Middle East is a very important topic that our community in the Middle East should be talking about it.

It has to go beyond the GDPR compliance because we want the privacy after domain name registrants be protected and fortunately we have a law now and this discussion is go. We took the opportunity to comment on the model that ICANN provided but also emphasize that there should be a global model and not only restricted to Europe.

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I think we are late so I'm not going to go through the whole statement. Rafik, also a drafting team member who's commented on the document can read and explain if there are any unclear things. Just one emphasis that we have to get this statement out soon because ICANN needs comments and they have to get it pretty quickly. We should work on it in a couple of days. Considering that, I just pass it to.

TIJANI BEN JEMAA: Thank you very much. Rafik was one of the most contributors in this statement who read it. Rafik, please.

RAFIK DAMMAK: Thank you. We, the Middle East Community Members participating in the internet corporation for assigned names and numbers ICANN 61 Public Meeting in San Juan, Puerto Rico and attending the Middle East Space Session on Monday 12<sup>th</sup> March, 2018 discussed WHOIS Compliance with GDPR.

The privacy of domain registrant in WHOIS especially in the Middle East has been an understudy topic at ICANN. We are glad the general data protection regulation, GDPR, brings attention to this very important issue. We believe that WHOIS purpose should be in line with ICANN's mission. This means that wide access to WHOIS data should be considered. The collection of

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data and WHOIS should be minimized to accomplish limited and well defined it purposes that are consistent with ICANN's mission.

GDPR has a global implication and does not only affect Europe. It has opened the door for better data privacy protection and can help the ICANN community to come up with better ways to protect domain name registrant data and also provide access to this data in accordance with ICANN mission. Hence, our communities carefully following the discussion around GDPR, within the ICANN community. Support compliance model that has a global angle and at the same time not only restricted to Europe.

ICANN provided three interim models for WHOIS compliance with GDPR. At the time of the issuance of this statement, it's offering another interim model for community input. Concerns about all the provided models so far lie in who access for nonpublic WHOIS data is going to be granted and about the possible implacability of this application.

All the suggested models still allow for the collection of data to its maximum extent and thick WHOIS is preserved. This for us is a concern because the models might not be in compliance with the GDPR, they seem not to abide by the principle of the data minimization and they might be in violation of the domain name

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registrant privacy. While it's the document describing the model that provides its own interpretation of WHOIS service purposes, the legitimate existing purposes are still under discussion and need to be set by the community and the definition of the purposes should be justified.

We would like the ICANN organization and ICANN community to take into account the following issues when trying to develop policies or implement models for WHOIS compliance with GDPR. First, the current tiered models suggested by ICANN that allows access to registrant data do not go into details on who certification will take place. We are deeply concerned as one of the suggested models made later on involve from the interim to permanent and concerns raised by the community may not be fully addressed. We are therefore of the opinion that any certification model should be shaped in consultation with the whole community.

Second, publicly available data WHOIS data registrant from the Middle East can create different challenges and devastating consequences for the registrants, the necessities are a special attention and concern work on better mechanisms of data protection. Awareness about registration privacy and proxy services is not high either, as only 20% of the domain name

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registrant use privacy proxy services in the Middle East and in some countries it's lower than 10% in total.

This illustrates that domain name registrants either don't know about such services or sometimes are not even aware that their information will be published publicly, hence we ask the ICANN organization and the ICANN community to take into consideration these concerns when discussing the tiered access. The WHOIS data and the most recently provided model is shared among three parties with no clear justification. This increases the risk of data being used for purposes other than for which it was crafted.

Fourth, as the information lies at domain name, IDE registrant and those who don't use a primary Latin alphabet, we believe that it is very important to consider the impact of the implementation of the translation and the transliteration of the contact information on the registrant's privacy. This is important in the context of the Middle East as this region is home to a number of languages, uses Arabic script and has a variety of IDN's, this language for example includes but is not limited to Arabic, Farsi, Urdu, Sindhi and Pashto among others. We would like to state that our concerns about data protection go beyond ICANN's compliance with GDPR regarding the WHOIS data.

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We look forward to seeing the new generation registration data services finalize into the spirit of preserving the registrant data, while reducing the collected data to the minimum required by the purpose. Storing the data in a single place, the registrar, and the restricting public access to it. We thank you in advance for giving due consideration to those issues we have raised regarding the privacy protection of domain names registrants.

TIJANI BEN JEMAA: Thank you very much, Rafik. First commenter on this statement will be the one who read it, Rafik.

RAFIK DAMMAK: I know maybe one of the first comment we will have it's about -- because when we drafted this it was during the time when we had three models and get lately the cookbook, so maybe that we should have in mind and even we're asking for changes, we know there was kind of a timing issue.

TIJANI BEN JEMAA: Thank you very much. In fact, this interim model is good a evolution from the four first models proposed which were model 1, model 2A, model 2B and model 3. On all levels it is different and it is a very good evolution but we still have problems and I

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will not start by giving my opinion, I will ask you to discuss this statement. Who wants to start? Yes,

ABDALMONEM GALILA: Abdalmonem for the record. Statement number three, if I may understand, you mean by thick WHOIS, it is thick registry, am I right? Most of Africa have thin registry rather than thick registry. So how will GDPR control that?

TIJANI BEN JEMAA: Let me explain what is thick WHOIS and thin WHOIS.

ABDALMONEM GALILA: Yeah, thick registry means [inaudible] model. Thick WHOIS means there are three barbers: registrant, registrar, registry.

TIJANI BEN JEMAA: No. It is about the content of the data and the number of data in fact. At certain moment in ICANN I told you that we were discussing this WHOIS data since the inception of ICANN and we tried to find a consensus among the community and we never managed to do that because, as I told you, the interests are really different and there is strong interest in both sides.

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At the center moment we got a slight evolution and we managed to define two types of WHOIS data. The thin WHOIS and the thick WHOIS. Thin WHOIS means all the data we are collecting now, thin WHOIS, is a smaller amount of data and at this time it was decided that the registry will get only the thin WHOIS. Today they told us that they will give the thick WHOIS to the registry, which is in my point of view, a problem. I have two hands, Nadira please.

NADIRA ALARAJ:

Subpoint regarding the registries, the data which collected by the country code, top level domain registries most of them in the region, please correct me, they register with the national -- few of these countries. I know dot PS, it is open to the whole world. In a way some of TLD's they will not be complied or affected there's no international, no European registered on a local level. I don't know how we consider that part of the statement as well.

TIJANI BEN JEMAA:

ccTLDs will not have a problem with ccTLDs because it is about the citizens, not all but in our countries at least ccTLDs are the user, these are our citizens. If you are serving European people or European resident in Europe, you have complied with the



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GDPR. If there are users of dot PS in Europe, you have to comply with GDPR.

NADIRA ALARAJ: I do understand.

UNKNOWN SPEAKER: Nadira, we are really not talking about ccTLDs here because they have their own policy, they are subject to their local laws and they do not have a contract ICANN. This will not affect them.

HADIA ELMINIAWI: I wanted to go to paragraph number four, which starts with ICANN provided three interim models and I want to clarify two points here from my point of at least, maybe it's not the point of view of others but that's how I understand to. If we go to the fourth paragraph, the fifth line, this raises concerns because the models might not be complaint with the GDPR, they seem not to abide but the principle of data minimization.

In my opinion, this sentence there, does not seem to abide by the principle of data minimization, it's because the principle of data minimization directly links the collection of data with the purpose of collection. Though the document does provide actually purposes for the collection what's missing is the logical

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or the link between the purposes and the required information. If this rationale is there maybe this sentence would not be there. I think the models presented are missing the rational, the linkage between the collection of data and the purpose.

TIJANI BEN JEMAA: Thank you very much.

HADIA ELMINIAWI: The second thing. The sentence that says, and they might be in violation of domain name registrant’s privacy. Again, my understanding of this part is they might be in violation of domain name registrant’s privacy because again, the interpretation of the implementation of the balance between the legitimate interests and the rights of the subject data is not there yet. After the interoperation of this impregnation is there, it might or might not be in violation of the privacy of the registrants.

TIJANI BEN JEMAA: I want to remind you that Rafik just said that this statement will be changed because we have new elements. I like to you to discuss the ideas, the principles not the details of the text because this will be changed. Obviously, this will change and I

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invite the drafting team to come back to this statement after this meeting and to update it according to the remark we will have and according to the details we have now with the cookbook.

UNKNOWN SPEAKER: Hadia, as I commented on the doc this data minimization is of course in breach and you can with the principle data minimization yourself and of course ICANN model might be in breach of this principle as it is a stated, it's not stated by me, as it is stated by lawyer in Europe and also Thomas in the echo book mentions that there might be a violation because there's not data minimization and even when I was talking to John who is here, when I asked if the data that they're going to collect is going to be in compliance he told me we never it's going to be in compliance. John, would you like to tell us?

JOHN JEFFREY: I don't remember saying that exactly. I think that what we were pointing out, is we are testing compliance by sharing the model with the DPA's. The cookbook that we've published which I think here has the link to and we'll provide you -- we can send to you again, has in an attachment one, the legal justifications relating to each element.

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Now it can be deeper and there can be more explanation to Thomas's point but it's the first draft of the cookbook, more information can be provided but we believe we've collected quite a lot of information about the individual data elements and the reasons why different groups were seeking those data elements to be part of the public WHOIS and part of the collect.

I think that in just listening, I'm sorry I came late I heard some of the dialog and I think it's a little too soon to make presumptions that there is no analysis relating the retention of the data or the use of the data and in fact, many groups in the community are still providing us with information that will become part of that cookbook and that will become the formal analysis that's provided at the end of the process. We have submitted the current version of the interim model as well as the cookbook to the DPA's along with the questions where there are divergent points within in the community, so that the DPA's can help us weigh in on that.

In questions like, publication of registrant email address and these different elements, we're seeking the input of the DPA's and helping understanding. That's something that should be included, short of an accreditation model. After an accreditation model and accordingly.

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TIJANI BEN JEMAA:

Thank you very much, John. I'd like to fame this debate a little bit. You know that who read GDPR? I mean who read something from the GDPR? Very good. The GDPR is about data, personal data. Everything about personal data is inside the GDPR. The collection of the data, the storage of the data, the processing and the retention. To collect data you need a purpose, you cannot collect data more than is needed by your purpose.

The definition of purpose is already a problem in my point of view because we didn't start by defining the purpose. Some people tell me it is already in the bi-laws. I don't know but I don't send that like that. We need a purpose to collect the data and then when data are collected, before they are collected you need the consent of the data holder and if you don't have this consent you cannot, you are not allowed to collect data.

Now, to the processing. It very detailed that you cannot process data of people if they don't accept it and say that if the purpose of this data if not valid any way, you don't have to use this data at all. You are not allowed to use it. I don't know what the retention time is -- the registration process to two, I don't know why. Since we are not allowed to us this data.

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JOHN JEFFREY: That explanation is in attachment 2, to the retention. Look at the details of the cookbook. We've tried to provide justifications for those elements and we asked the DPA's to weigh in on whether the purposes that have been shown through community dialog are sufficient.

THOMAS RICKERT: I think we can't get that into the Adobe room quickly. If you want to, you can easily google the DGPR, the regulation and I would recommend that you look at articles 5 and 6, who speak of fairness of processing in article 6 spends out all the legal grounds applicable. You have a limited catalog of legal grounds for processing, one is consent, you can process data if you have the users consent but it needs to be informed consent and this consent can withdraw at any time.

That's 61A, then you have processing to perform the contract. Where you need data to perform a contract, you don't need the data subjects consent, if I run an online bookstore and you order a book with me then certainly I need to know your name and the shipping address. Once this purpose of filling the book is fulfilled, then I might not be entitled to keep the data any longer. But there might be bookkeeping requirements and text laws that require me to keep the invoice, but there's a limited purpose for keeping shipping address for example.

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Then you can process data to fulfill a legal obligation. If I get a subpoena can pass on data enforcement to a legal obligation, stemming from the law that invites the way enforcement. They we have data process for viral interests of data subject, that's to relevant. Data processing in the public interest, that's for those who are vested with informing a public function. Data processing based on legitimate rights and that's what we're discussing most here.

In fact, every processing, every step of the processing and processing is collecting, transfer, disclosure, modification, all those make processing activities. Basically, you need a purpose, for a legal ground for each step of the processing and therefore you can start going through that exercise and look at what does the registrar need to register a domain name?

And if you need that data to register a domain name, that's covered by fulfilling the contract, performing the contract. You have a legal ground, plus you have purpose, registering the domain name, you're good to go. The data subjects might not expect their data to be publicized in WHOIS, that might be a surprising clause and therefore that might not be covered.

There might be overwhelming interests of law enforcement and other data publicized and that could constitute in a legitimate interest but then you need to start balancing the right so of the

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data subjects against the rights of those who claim to have a legitimate interest. That's the biggest challenge I think and that's where we need the governments and DPA's. Sorry for taking too long but these are some basic mechanisms that you need to run through. I recommend looking at Article 5 and 6.

TIJANI BEN JEMMA: Thank you, Thomas. John.

JOHN JEFFREY: I think you want to read those beside what we're representing in the model or what Thomas has presented in echo. It provides a very good explanation of who those data elements are used, when we started the discussion with the DPA's, some in the community believed that ICANN help great big data base of this information and was the sole controller of the information but in fact ICANN's use for example, is only for a little set of purposes which do fulfill sections or contractual agreements with the registrars and registries such as the retention of data for growth, the transfer of information between the registrars and registries.

The right of course to audit under the contract to make sure the data is sufficient for the purposes under WHOIS and under other contractual purpose. The legitimate uses are a big question and a challenge but one of the things I would implore you to it just



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make assertions based on the law or based on other people summaries but actually go in the details and look at what we've provided in the attachments, which references to the specific laws, the data elements align to those and I think we could provide for information. We continue to improve that information but you'll find a wealth of information there, some of which some us have been short butting in the discussions about what's there and not here.

**TIJANI BEN JEMAA:** We are running out of time. If there I nothing I would like to say two words about the model. Collecting thick WHOIS and storing it in four places, the registrar, the registry, the agent and ICANN. Then we say it is not public, the linkage is very easy then...

**THOMAS RICKERT:** One very important clarification. The fourth one is not true. ICANN does not store the data.

**TIHANI BEN JEMAA:** Okay, three places, it's not a problem. Already, I don't understand why we are collecting as much data as the queries we have now.

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Why we have to pass all those data to other elements. This is the minimization. I don't see if we continue to do that. Another very important point, which is the self-accreditation. This is something that in my point of view couldn't be accepted because self-accreditation everything will be public. It should be very easy to accredit itself to access to data. I think the accreditation models is now an accreditation process is now under discussion and I think it is one of the most controversial point perhaps in this discussion.

JOHN JEFFREY:

Quickly also on self-accreditation ICANN's model agrees with what you just said. We do not agree that there should be a self-accreditation model and I think we've crisp on that. On the accreditation model, the more formalized accreditation model, we think that's how you have to formalize a code of conduct, a set of rules around it, so that parties that have a litigable interest, to access the nonpublic WHOIS, have go through a set of gates and requirements and act a certain way with that data in order to be complaint with the law.

TIJANI BEN JEMAA:

Thank you very much, John.

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FARZAHEN BADII: For the accreditation, I don't know if we want to update this to -- comments on the accreditation bar, my person view of the accreditation is that yes, GAC can be responsible for coming good for law enforcement agency list but to honest, for the other top matters, no. I'm compromising here because as told you and others, some governments, law enforcement agencies not protect their citizen it is to harm their citizen. I'm not going to be that in that statement cause it's not going to get consensus but this a compromise I think I think we should -- law enforcement agencies they can come up with a list but then for the rest it has to be a consultation with the community.

TIJANI BEN JEMMA: Thank you. The public forum is -- we start now, so we have to end this session. I will give the floor to Christine for final words.

CHRISTINE ARIDA: Really very quickly, I thought we were going to discuss more of the statement because there are things that were not clear but I would think that point number four might need to be reconsidered. I really don't understand how can translation and transliteration has anything to do what the privacy. Thank you.

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TIJANI BEN JEMAA:

I invite you all to integrate the drafting team because this statement will be rewritten. Please Christine, come to the drafting team and help us to do so. I'd like to thank you all for this discussion. I want especially to thank Thomas Rickert, John Jeffrey and Theresa who stayed with us till now.

Thank you very much for you time and I hope that this session was helpful for you to perhaps better understand, perhaps see better what will happen in the further because I myself, I don't know what will happen in the future. It will be in May and it is very difficult. Thank you all. This session is now adjourned.

**[END OF TRANSCRIPTION]**