
SAN JUAN – ICANN GDD: Registry & Registrar GDPR Compliance Model

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UNIDENTIFIED MALE: ICANN GDD: Registry & Registrar GDPR Compliance Model at ICANN 61, San Juan, on March 15, 2018, in Room 104. GNSO.

AKRAM ATALLAH: Good morning, everyone, and good afternoon. Thank you for joining us in this session. While we're trying to upload the slides, I guess – it requires 15 GDD personnel to load the slides, it seems – we're here because we need some help in formulating an implementation timeline that we can submit to the DPAs for, basically, implementing the two-tiered model. We are going to discuss with the DPAs the approach and the model, and we're going to finalize that but we want to be able to show them as well the timeline that it will take us, as the whole of ICANN – all contracted parties – to implement the ability for accessing the second-tier data.

I just want to emphasize that this is not about the criteria for who gets access to the data. It's not about anything that we are discussing in other places. This is clearly about, once I have a document in my hand – let's assume that Interpol is going to have a talker – how they're going to be able to actually get

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access to the second-tier data. We want to put that timeline in front of them, and we need to be able to commit to that timeline. So that's the key ask here that we have.

It's too early for that.

So we want to figure out how we can build a timeline that we can have by the end of next week that we can commit to so that, if they give us guidance of, "Okay. That model is fine. Go ahead and implement it," we can show them a timeline that says, "We're going to need this much time to get everybody to implement this and be able to access the data and commit to this." Then we have to deliver on it. So we don't want to go and send them a timeline that, later on – six months from now or something – we have to go back and ask for another extension or that we cannot deliver on.

So it's very important that we talk about the work it's going to take to actually agree on what we're going to do and then put a timeline together. We don't have much time in front of the DPAs. I think we're getting in front of the DPAs in the week of the 26th, so we're targeting something that we can put in there by the end of next week – by Friday the 23rd.

This is a very high-level timeline. We're not going to ask the DPAs to drill into who's implementing what or the details of it, but we want something very rough. This is something to discuss. We're

going to define the interim compliance model. We're going to complete the technical specification required for implementation. Then we're going to implement, and then we're going to start a testing and transition phase. At what point are we going to be able to say, "This two-tiered model that we're talking about is going to be live," and people will have the tokens and will be able to access the data?

Now, if you go to the next slide, please, I was showing a lot of the things that were going on in parallel right now, but we really want to focus on the two things. What is the RDS protocol that we're going to be using to provide access to the second-tier data? And what is the authentication mechanism? Which means: are we going to have a multiple-technology solution, like certificates, passwords, and one-time tokens? Or are we going to have one that we're all going to converge on? We need to all agree to that because, if the implementation, for example, to allow for all of these technologies to work will push us out too far, maybe we need to agree on one technology that we all implement. This way, we can get things done fairly quickly. Next slide.

We know, for example, that WHOIS Port 43 will not accommodate tiered access. We know that RDAP does accommodate tiered access. We know that web-based WHOIS can, but what implementation? Is this feasible? Not feasible? So

we want to agree on the protocol that we're going to use. Next slide, please.

Then we want to agree on the authentication choices, not on how we authenticate and what the criterias are and stuff, but what is it that we want Interpol, for example, to show up with and access that data? Is it a digital certificate? Is it a token? Other things? A retinal scan? I don't know, but we need to agree on these things so that the contracted parties can implement something and, at some point, we can say to the DPAs, "At that point in time, we're going to be able to have this tiered access all implemented across our entire space." Next slide.

We want to get to next steps, which means we need a timeline needed by the 23rd of March. Maybe we can add the weekend to that, but basically we're talking about days – we're not talking about weeks and months – so that we can submit it to the DPAs with our model and our questions and start engaging with them on how we're going to put this together.

JJ, you want to add anything to do the DPA engagement?
Thanks.

JOHN JEFFREY:

No. I'll just jump ahead of what some logical questions would be. Why are we seeking to have a timeline, and what do we want

to do with that? When we go into the DPA discussion, we're hoping to hear some feedback on it. We're hoping to hear that they have some questions about some elements, where they like this piece of it but they don't like this piece.

When we get into that discussion, if we hear that there's some way that we can achieve an interim model that can be compliant with what the DPAs are looking for, then we're going to be asking them for time to allow the community to implement this and put it into place.

So we want to have a timeline that we can commit to, a timeline that you can live up to, a timeline we're going to be able to say with some commitment level that we're going to be able to, as a community, reach because we may not get more time. That's why we're pushing on the timeline issue as something we can carry in. We want it to be something that is deliverable, with the thought that, yes, there's still some work to do on the model. There's still going to be some work to do on how you get a certificate. But assuming that there will be a certificate that allows you to access non-public WHOIS, what's the timeline for being able to take that certificate and being able to provide access to it?

AKRAM ATALLAH: With that, I think we want to make this a discussion. What do we need to do? What are the next steps? How can we help get to that answer by the end of next week?

We can discuss, for example, the protocol itself. If we can have agreement on that, I think that will go a long way to be able to get a timeline of implementation for that.

The mic is open. Let's start the discussion.

Please.

RUBENS KUHL: It seems that this is based on a big “if”; that the DPAs will provide forbearance for keeping WHOIS as it is until December. That's probably not going to fly since DPAs are liable under the GPR for not acting in the interest of the [inaudible]. So we are asking them to go against the law to preserve someone else's interest, and that's probably not going to happen.

Considering that's not going to happen, I don't know whether we need to set a timeline. A timeline would be good if we could get forbearance from them, but that's very unlikely.

JEFF NEUMAN: Just a hopefully simple question. When will you all have the interim model locked down – “locked” meaning no changes,

nothing, completely locked down? Because that also determines how we approach a timeline.

JOHN JEFFREY:

On the first comment, we don't know the answer yet. We understand the position you're taking. What we are hearing and what we've seen from some of the articles discussing other industry sectors – and we've heard the language used in the conversations – is, if we have a plan of action in place, then they're unlikely to seek compliance while that plan of action is being executed.

So what we're trying to come to, both with the interim model and with the suggestion about how we would deliver that model, is a plan of action.

So it's possible – you're right – that we won't have an agreement on a plan of action, but the only way we can seek a plan of action is to actually understand what that plan of action would be and what a timeline toward implementation of a model would be.

CYRUS:

Let's go to Jeff and then Beth, Thomas, and then [inaudible]. Let's go to Michele. Sorry.

JEFF NEUMAN: I'm sorry. I asked a question. I just didn't get an answer.

JOHN JEFFREY: I answered the one before. I just hadn't gotten to it.

JEFF NEUMAN: Yeah.

JOHN JEFFREY: Remind me what it was.

JEFF NEUMAN: And there was actually a follow-up, too.

JOHN JEFFREY: It's when the model would be locked down.

JEFF NEUMAN: Exactly. Is this the first week of April? The last week of April?

JOHN JEFFREY: Good question.

JEFF NEUMAN: To follow along, when we talk about defining the interim model, it's defining everything about it, including: is it query by query searches? Bulk access? It's everything. It's not just a simple high-level model.

JOHN JEFFREY: Right. The dates are, I think, just example dates that were put in. So there's no assumption that it's December. It's partly a question and partly that this is the first stage of engagement with the community about how to determine what a timeline would look like.

So the question on when it would be locked down? If I could answer that, then we'd be farther along than we are right now, not in terms of what we could do – we could lock it down tomorrow – but we don't yet have the input and we don't yet have the final approach presented to the community or voted on by the board or presented as how it will be mapped into compliance.

Now, one thing you could do is, rather than put in specific dates, say, from the point that ends, how many weeks does it take – how many months does it take – to implement? We're open to ideas. What you're seeing on these slides are just best efforts to try to stimulate the dialogue.

CYRUS: Let's go to Michele.

MICHELE NEYLON: Thanks. So you've got two slides there with possible timelines. I'm trying to map out multiple processes and things that are going on.

Now, the issue, I think, for a lot of us is, first off, much as I can appreciate that you would ask us to "decide" on a protocol, not everybody who's impacted by this in terms of contracted parties is here. Sure, the bigger players might be, but not everybody is. So I think that, first off, asking us here and now to take any kind of decision is going to be highly problematic.

The other issue is of being realistic. For those of us who will have to operationalize it, we've already missed that deadline, realistically speaking. So now we're into a situation where we are in remediation, as it were. We're documenting the steps that we've taken, the steps that we plan to take, etc., etc.

I'd also have concerns about the very concept of asking a DPA to give forbearance because, realistically speaking, the DPAs themselves may wish to do lots of things, but that still doesn't stop a data subject from suing them. I can't see how you get out of that one.

But I'm still happy to discuss those.

JOHN JEFFREY:

Can I make a suggestion? We've had a whole bunch of sessions on the legality of it. What we're trying to actually do is take in a plan. We want to take in plan that actually realistically represents how you could implement what the community agrees is a good approach, which is a tiered or layered plan.

Let's say we can all agree that someone has a legitimate access to non-public WHOIS and at some point you're going to present it to them. We can do this a whole bunch of different ways, but if you can imagine any way that you're going to present access to non-public WHOIS, what is a rational timeline to be able to present them with that access to the tiered or layered non-public WHOIS?

If this is impossible and we can't approach it this way, then let's try a different path. You guys suggest a different way to go about this. What we'd like to do in the discussion is be able to say, "In six months (in nine months, in a year), we would be able to as a community to present a tiered or layered plan the community to agree to and could implement."

If that's impossible, then it's impossible, but let's not make it about whether the law says that, in May, you can or can't do this

or whether the DPAs will give this to us or not. We're following a path along what we've been told is a rational path in discussions with DPAs, so we're going to go down that path. If it ends up being something we can't do, then we can't do it.

But we'd rather do that with education points from the community about how that can be implemented than saying we won't take it in because we don't know.

CYRUS: Let's go to Beth.

BETH: Hi. Thank you guys for taking the time to put this together and have a chat. I will say I 100% appreciate that we do need a timeline. I think there's an agreement that we don't have anything that's a tiered or layered access that would be ready by May 25. And I 100% appreciate and am happy to contribute to developing a timeline as to how that would come about post-May 25. That is completely rational. I understand going to the DPAs and getting input from them. That's an extra data point that you guys have.

My concern and question here is, are we specifically talking only about that timeline for credentialed access? Because, while that's important, if we are in agreement that that April bubble

and that compliance model that we have in April will not have a requirement for tiered access, I would appreciate if we could talk about what the timeline is for those things that are going to be in that compliance model in April. For those items like the tiered access that are going to happen a little bit later that we all agree are going to need development, either [push] that into the RDS PDP Working Group that is already up to their eyeballs in this stuff, marry that with a timeline that consults with the community.

But I do want to put a mark in the sand. Between the blue bubble and the orange bubble, there's a lot of work to be done. I would really like to see or talk to you guys about what you see for those immediate needs as opposed to these down-the-road needs. I understand you have a meeting next week with the DPAs, but those are the more immediate things that I think would be of value to discuss as well.

Thanks.

AKRAM ATALLAH:

Thank you, Beth. I just want to make sure that we don't get into a narrow-minded mindset of, "Okay. The first step is getting the interim model locked." That's a discussion that is taking place across the community. We're working with everybody, with the community, to get to that point. But we don't want to do things

serially. We want to try to do these things a little bit in parallel so that we can get as much time to deliver on the timeline and also to implement the timeline.

If we continue to do things serially, it might push out too far, versus if we can agree on the principle that there will be tiered access. If there will be tiered access, we will need some technical protocol implemented in order for somebody with a token to access that.

Like John said earlier, take April out and say X. From X date, when this is locked, how long will it take us to develop, implement, test, and then transition to this tiered access? Because, if we want to go to the DPAs and we want to get some kind of an agreement from them that we're on the right track to go ahead and implement, they've actually asked for a timeline because they don't want to give us an open-ended thing: "Yeah. You're doing great. Five years from now, we'll check on you and see if you're there."

Basically, they want to see us committed to a plan, to a timeline, and then hold us to it. That, I think, is the message that we've received, and we're trying to fulfill that and trying to build the thing with your knowledge like we did here. We could come up with any plan, but it's not our plan. We have to commit to that because the contracted parties are going to have to implement

this protocol. We need your best guess at a feasible timeline that we can put in front of the DPAs in case we get their agreement that we can deliver on it so we don't go back a few months from now and say, "We need another extension," and then another extension. We need to have something that's vetted by you that we can stand behind and take to them.

Thank you.

CYRUS:

Let's go to Thomas, then Maxim, and then Keith.

THOMAS RICKERT:

Thanks very much, Cyrus. Thanks very much for the opportunity to discuss this.

I have a few points to make. First question: there's a lot of talk about getting feedback from the Article 29 Group. I hear different messages about what that means. Are you talking to the Article 29 Group? Are you talking to the Technical Subcommittee? Are you talking to a subset of individual DPAs which are part of the Technical Subcommittee? Because I think that has a lot of impact on how much blessing the response that you might get has within the whole Article 29 community, which consists of all national DPAs. So which one is it?

Then I think it makes an awful lot of sense – and it is overdue – that we talk about potential implementations. My understanding is that everyone is under the impression that whoever gets the token gets access to everything that’s behind the firewall. I think that you can’t divorce the technical questions from the legal questions as to who can get access to what. It is my understanding that, so far, ICANN has planned to talk to the DPAs themselves without involving the contracted parties.

I think that this approach is flawed because, ultimately, my take on this is that no DPA will give you blessing on this. So there will be a remaining risk with the contracted parties to whatever approach they take. It would be invaluable for the contracted parties to be sitting at the table to see what is being communicated and then make a business judgement as to what the DPAs communicate and whether they like certain approaches or not to then make an informed decision as to what risks they can actually accept as they move forward.

So far, what ICANN has discussed with the DPAs is completely non-transparent to the rest of the community. I think that this must change. I think we have made great progress working on this in a very collaborative spirit over this week, and I hope that ICANN takes this on board and invites the contracted parties to the table when it comes to discussing with the DPAs.

AKRAM ATALLAH:

Thank you, Thomas. I just want to emphasize that the discussions that have been happening have been very transparent in the sense that we are putting out everything that we're talking to them about to the community before we go into meeting with the DPAs. We are discussing with them the product that the community has put together. We are even discussing with them the differences where the community is still not in agreement.

These are not discussions that are about anything else but the work that we're all doing together to get to the point where we can implement an interim model that will be blessed by the DPA. That's our approach, and that's the path we've taken. We're pushing on that as hard as we can to provide the contracted parties with assurances that, if they actually follow the model that we have, the DPAs will grant us the implementation and the time it's going to take us to put the thing in place.

There is nothing about our discussions with the DPAs that is not transparent because we're not walking in there with different plans that we are working on and building with the community.

Now, it is a difficult thing for us to get with the DPAs in the first place and to actually invite everybody and find the time that

works for everybody. We're trying to move as fast as possible based on this plan. ICANN, as a controller –

JOHN JEFFREY: Let's not start that path. We'll take another 20 minutes. We're a controller. We're a form of controller. We can argue about that in a different meeting.

UNIDENTIFIED MALE: So –

THOMAS RICKERT: Just for the record, I didn't bring that point up.

AKRAM ATALLAH: Yes. But I want to bring it to your attention that nobody is preventing you from actually approaching the Article 29 Group and talking to them and getting feedback. From our perspective, we have to move as quickly as possible in order for us to maintain WHOIS and maintain WHOIS as close as it is to the current policies and implement something that works for everybody.

So I really don't want to rehash all the issues that are happening in all the different foras. We're trying to narrow the session to something that is critical to the path that we're taking with the

DPAs so that we can get to a solution that hopefully will meet everybody's needs and we can all put it together and implement it together. So, please, let's not rehash all the discussions in previous sessions here. Let's focus on the timeline and the elements that the contracted parties need clarity on in order for us to get the timeline in place. Please.

[THOMAS RICKERT]: Akram, can you just respond to my question as to whom you're talking to?

JOHN JEFFREY: Yes. I think it's been in one of the blogs. I don't remember each of the blog that we've posted, but maybe Theresa Swinehart can address it if she's in the room. Or we can publish it for you later.

Jean-Jacques in our Belgian office engaged with a number of the DPAs and asked who we could talk to about this. We were provided with the name of a group that meets on a regular basis. You probably more about technically who they are. It's a technology group inside of the working party. They are advising the bigger body – the Article 29 Working Group – which will, I believe – I don't know the exact details, so I apologize – will meet as a technology group sometime this week it is, and then they will come back to us with the documents that we submitted

on Friday and the documents that are all posted on the ICANN site. They told us that they will come back and try to give us advice on what we sent to them – on the cookbook, on the model, on all the documents that have been posted and sent to them.

So that's the meeting that we're expecting on the 26th. We don't know exactly which parties will come, but I believe it's the technology group within the Article 29 Working Party that has been focused on this. So they make the invitation to the DPAs. We do not. We make ourselves available. So during the week of the 26th we will have a meeting. We don't know exactly when that meeting will be yet, but I will fly to Brussels and be available for whenever it is that they'd like to meet with us with our team. We will then take in their input. They told us that the more specific that we can become as we get further along on this process on timelines, on what it would take to implement, the more that would be valuable. We told them that we have the capacity through our contracts to have a model that could be applied to the registries and the registrars through our processes.

They are interested in that, and that's one of the reasons why they're interested in providing feedback to us as we understood it; so that they would be able to communicate to ICANN what we could put in the model that could be compliant. We told them

that it's going to be very hard for a tiered or layered model to be implemented within the timeline of the start date. They told us that we needed to provide them with a clear timeline on what that would take. So that's how we're trying to get to this discussion.

You're right. It's complicated. There are lots of legal issues that are still involved. We completely understand that. We've been talking about it all week in 50 different sessions and the 50 in the weeks before. You've participated in many of them.

I get how frustrated you are. We're frustrated too. But we're faced with a law and we're trying to do the best we can to put a plan of action in place that we can all benefit from. So we're asking you for your input and your feedback and any way we can feed into that so that we can make it the best plan of action available so that there will not be compliance against ICANN or the contracted parties if we're presenting something in the public WHOIS on the date. That's what we're trying to get to. Anything you can do to help would be great. Anything you do to stop it would not be great. Please help us.

[THOMAS RICKERT]: Thanks to both of you.

CYRUS: Thank you. Let's go to Maxim and then Keith.

MAXIM ALZOBA: Maxim Alzoba for the record, .moscow. Small qualification question. Basically, does it mean that we were talking to technical guys about legal matters? That's the first small question.

The second: this model covers the survival of WHOIS, basically, but in order to have a model which covers the survival of contracted parties, it will be nice to have, by May – I'm not sure how to call it – a GDPR [inaudible] procedure which doesn't involve compliance with a not-yet-ready interim model because it could not be compliant, hypothetically. So, in the process, we can survive.

To answer the Interpol question, they have procedures for that. They ask the local Interpol. They go to the police. It works slowly, but it works. There is nothing they will not be able to get out of local departments of Interpol. So it works.

JOHN JEFFREY: I just want to make a joke about your first question. I'm sorry, I can't help it. I talk to technical people about legal issues all the time, and I'm surrounded by all of you, who are technical people and lawyers who try to bridge those gaps. I completely

appreciate it, but don't think for a second that I go into a discussion and pretend like I know anything about technology. I rely on these guys, who are much closer to it.

AKRAM ATALLAH:

Maxim, thank you for your question. We're exactly here to talk about technical implementation and not about legal issues. Let's be clear on that. We're here to talk about technical implementation. John here is trying to help us to understand the path that we're working on and why we need this timeline so that we can include it with the model as we continue submissions and continue engagement with the DPAs.

To the second question, I think that, yes, if somebody knocks on the door of a registrar, they probably could sit down, have a coffee, and get the data that they want from the registrar.

I think what we're talking about is getting a system in place that's equivalent in access and speed to what they get today. Today they get to the entire data in a keystroke for a WHOIS query. The point is, how are we going to be able to do the same thing when we have a tiered access model?

Thanks.

CYRUS: Thank you. Keith, please.

KEITH: Thank you, Cyrus, Akram, JJ, and then team for coming to engage with us on this. I think it's actually very welcome.

Based on the required elements of the plan that we see in front of us on the screen, I think what we need to do is focus, to make this a meaningful and constructive engagement, on what the undefined and not-yet-finalized variables are that will dictate or impact the timeline. We don't have to necessarily say that we agree with these or that we're signing up to these at this point because there's a lot of answered questions on the legal side.

With that caveat, if we take these assumptions for the moment, I think we can focus about brainstorming around what the undefined or not-yet-finalized variables are that will dictate or impact the timeline. I think that will be a better use of our time than going around in circles about some of the unanswered legal questions that are still very valid.

I think, at the end of the day, in order to be able to sign up to a timeline, even a broad strokes timeline, the details matter.

Thanks.

AKRAM ATALLAH: Absolutely. Thank you, Keith. We have tried to actually start from the top level and say we need to have a protocol that allows for tiered access. We don't want to dictate what this protocol is. We want to actually agree on the protocol with the contracted parties. Hopefully it will be a protocol that is feasible to implement in the shortest period of time. Then we want to also agree on the authentication mechanism.

If we have those two agreements at a very high level, we would actually now flush down the other variables that are needed to be identified. Then hopefully, if there is another tier of an identifier or variable that we need to identify, we go to that tier.

Eventually, we get answers to all of these, and we have a path where, if everything goes according to plan, this is what the timeline would look like to implement. Then hopefully we can get the forbearance from the DPAs as we're planning.

Thank you.

KEITH: Thanks, Akram. Just a quick follow-up. Again, I think you're hearing from the room that there's a lot of skepticism about whether this path will be successful. And that's okay. I think we will have to, in parallel, prepare for what we're all going to do if it's not successful.

Based on what you've been telling us and what you've been hearing from those groups, if there's an opportunity here to present a plan that will give us forbearance or give us the breathing room to be able to implement a plan, I think it's incumbent upon all of us to take that opportunity. We got to at least give it a try.

CYRUS: Thank you, Keith. Amadeo, please.

AMADEO ABRIL: Amadeo Abril, talking on behalf of the CORE Association registry and also COREhub for the firm parts.

We have Part A and Plan B. Plan A apparently is to delay the implantation until we have a timeline. I would just echo what Michele says. I'm not sure that this protects COREhub as a registrar from a complaint from any customer to a DPA or [inaudible] registry about the complaint of any customer in a different DPA. I'm certainly not sure, so perhaps we will need a Plan B.

Plan A. I think that collection is okay, provided that you make the opt-in thing optional for the time being because it will take time to implement. At least optional.

Second, transmission. This is up to you. If JJ has all the necessary guarantees and clauses [inaudible] prepared for all the agreements with the registries, the RAR with registrars, with the scroll agreements that we can [modify] and a procedure for [inaudible] or [error raised] in block to include all these for the transmission between registrars and registries, we can make that in the time. It's difficult, but we can make it.

Now, the next topic is the wild card: access to what's tier access. Here, in order for us to say something or for me to help you, there's still the big question of what it means because certification and talking to [Tetra] – if it keeps meaning access to all the data for any certified, that's a problem. If not, we need to define the different types of access because this is what really affects the timeline and the implementation and the technical solution for that.

So I don't know. Really, I [would like] helping you. But they have a Plan B. My Plan B that I don't like is that I'm afraid that the only sensible thing I could do is advise my customers to, on May 25, apply the tiered taxes and take it upon themselves to deal with the request for legitimate access.

I agree with what the Business Constituency defined. We are doing that. [.cat] is doing that or .fur is doing that. I'm not talking on their behalf. I'm talking about, as an observer, what happens

there. You have probably never probably received a complaint about how these many ccTLDs and some gTLDs handled that. So there is a Plan B.

The problem is this [that] we will need to implement. If we have to choose between complying with the ICANN agreement and what the DPAs will ask us to do, probably we will need to choose the second thing. And I'm not very happy.

So let's focus on the important part. What would we mean with the certification? It means that the police has access to everything? Okay. Let's discuss that. Who else? And who has access to the list of domains they provide? Then we will have probably not one solution but more than one solution we will need from a technical and implementation point of view. We can start to have some answers.

Thanks.

AKRAM ATALLAH:

Thank you, Amadeo. I think that what we're trying to do here is we're trying to figure out the timeline based on the model that we currently have.

Now, I agree with you that it might change. But based on the current model, we have two types of access. One is the public access, which is visible data that we have in our model. And

there's the full access. We're not talking about multiple profiles. We're taking about two profiles: either the public access piece of the full-access piece. I agree with you that that might change, but for now, we need to focus on the model as it currently is and then look at what we can do.

It's important to look at what we're asking to begin with, which is a protocol that actually can work for tiered access. Once we have that, we might have more profiles that we have to implement, and, like you said, we might have a lot of things that change. But let's first agree on the first steps first and then go from there.

Thank you.

AMADEO ABRIL:

Thanks for answering the question I'd be answering all week, but let me follow that. When you say "full access," I understand that. Full access not just to one record but to the whole database, right? For each TLD.

AKRAM ATALLAH:

Our assumption is that we want to have something similar to what we have today, which would mean –

AMADEO ABRIL: Okay. So either you have everything, or you only have the default.

AKRAM ATALLAH: Yes.

AMADEO ABRIL: Okay. Then you will have my cooperation in trying to stop that. Thanks.

CYRUS: Let's go to the floor microphone.

FRED FELMAN: Hi. I just had a question. Could you roll back to the timeline? Is it possible we could look at the timeline for just a second? I just want to make sure I understand this. It shows the May deadline, and then it shows implementation. Are we talking about an implementation timeline of tiered access model for December? Is that what that says?

If that's the case, then we're talking about a blackout period for tiered access to the data? Is that what I understand?

JOHN JEFFREY: Yes. One of the questions in the Calzone Model that was submitted to the DPA is: what happens if we don't have assurances and we are entering into a process of building an accreditation model? Will we be able to continue to publish full WHOIS, or are there subsets of WHOIS that we could publish? So that's a question that we have as a part of the model that we have submitted.

FRED FELMAN: I'm not sure I understand the answer.

JOHN JEFFREY: We don't know yet.

FRED FELMAN: Okay. I guess the second part of my response is an offer. I'm working with a team of folks who have actually proposed an accreditation model. We offer the full access to our resources to actually help you come to an accreditation model with the hopes that we would not have any period of time where that data is not available. I think it's important to remember what's at stake here and think about the human and other costs are that real people face if we have security issues.

Thanks very much for your time.

AKRAM ATALLAH: Thank you. Rubens and Maxim, did you want to get in the queue?

Okay. Rubens and then Maxim.

RUBENS KUHL: Can you go back to the line with the layers? This one.

The only layer that I found to be missing here is the log-in and abuse monitoring layer, where people could see and say, “Hey, one IP lawyer out there accessed one million data records. And that’s probably not a good thing.” So having this kind of log-in, not a contracted party log-in, but a centralized log-in – “centralized” meaning that you could see all but could be a distributed ledger/blockchain or anything like that – is probably essential for those credentials to be credible. But we’d probably need to differentiate that for law enforcement because that’s something that law enforcement usually doesn’t like – being listed or what they are looking at. They usually operate in secrecy.

The other thing about law enforcement access is that that would probably require a strong jurisdictional component because, in some countries – [Latin], foreign law enforcement, accessing data is probably equated to treason. So we should probably look

very strongly into identifying which jurisdiction a law enforcement agent is from.

AKRAM ATALLAH: Thank you, Rubens. Very good input. These are the kinds of things we want to look at and say, “What else do we need for us to be able to get to a timeline that’s implementable?”

Thank you.

CYRUS: Maxim?

MAXIM ALZOBA: You were referring to the situation where, in the future, hypothetically law enforcement will have the same level of access. But they don’t have full, bulk access now, so there is nothing to be preserved. It’s enhancement.

Many registries have limits of access per minute that they allow for. If we are going to preserve something, most probably we should talk about the same of level access, not about the full, bulk, where you have everything in seconds.

Thanks.

AKRAM ATALLAH: I agree with you 100%. Maybe my statement earlier was taken out of context. My statement was that, in a single query, today you can get the full record or the thick WHOIS record. In the future, you're going to have, with a single query, either the public portion or the full record. That's what I meant by full access.

I understand that, today, our contracts do not specify anything about bulk access. We're not looking for a solution that doesn't exist today.

Thank you.

CYRUS: Thank you. Mark Anderson?

MARK ANDERSON: Thank you. I want to jump in on what Keith said. I think we can provide some input without commenting on whether or not we completely agree with the model. You've outlined a path forward, and in order to follow that, you need helping creating a timeline. So I want to maybe get that started a little bit.

You've identified two items that are in the critical path. You need to know what the technology is for delivering it and an

agreement on a form of authentication. Those are certainly two critical components.

I'll highlight another one, and that's whether or not registries and registrars need to make an EPP change. In the model, I think maybe it's a gray area as to whether or not there would need to be an EPP change in order to support the interim model. I can tell you that that would make a large impact on the timeline. If the interim model could be implemented without an EPP change, without requiring protocol changes, that's a much shorter timeline than if registries and registrars had to work out a cycle for changing EPP.

So I would put that in your critical path for determining a timeline.

Thank you.

CYRUS: Thank you, Mark. Michele?

MICHELE NEYLON: Thanks, Cyrus. I hope you've seen the – sorry, my throat is going – letter that the technical group of registrars and registries sent you on – okay, fine. We sent a letter which was specifically to do

with transfers. This goes back to making sure that the ability for people to switch registrars, etc., etc. flows.

On another point as well, to say that, depending on the query, you will get partial or full, that goes, I think, a little bit to the technology and how you implement it because it could be a system where you have, depending on the user, the token, the whatever, that that changes. I think that was covered in some detail in the EWG final report as well.

One thing I suppose I am struggling a little bit to understand – I’m not trying to pick on you JJ; I know you think I am, but I’m not; I know we’re joking – is in terms of the technology aspect of this. ICANN isn’t implementing this. We’re the ones who are implementing this. What you’re probably looking for is more consistency in how the consumer of the data, let’s just say, interacts with it.

If I implemented in Java and they implemented in C or somebody else implemented something else or whatever, you’re looking for consistency around the front end of it, I think, not the actual back end. That might be what you’re aiming for, I think?

AKRAM ATALLAH:

Yes. I think that there are, today, two ways to access the data. One is via web-based WHOIS, which is actually a user/consumer

kind of access. Then there's also Port 43, which is more automated. I think that you can send multiple queries and get the responses to one query at a time. But you can do some program to actually access multiple queries.

The question is, if we were to provide two-tiered access, what would that protocol be? Is it enhancements to existing protocols? Is it better to actually adopt a new protocol? How do we want to go about to actually provide this tiered access? If we can get consensus, that will also be very helpful because, in certain places, we have thin data and in certain places we have thick data. So we want to have consistency because registries and registrars need to also be working together for us to get the data, for the user to get the data.

If we have a single way to do that, everybody will work and develop the same protocol. I think that would go a long way to provide consistency.

Thank you.

CYRUS:

Thank you. Let's go to the floor microphone, and the Mark Anderson.

FABRICIO VAYRA:

Thank you. Monday, when we started this week off, I stood up at the mic and asked Goran about accreditation and access. The response I got was, “Hug it out with a GAC rep.” While that’s enjoyable, it hasn’t been productive.

I followed up with Goran the next day and asked him the same thing. Instead of asking, I said, “If I’m not going to get an answer, I’d propose something.” The proposal was that, if we delivered an accreditation model, would he be willing to put together a process where the folks in this room and those proposing this model could constructively hammer out something that could go into, say, the Calzone Model.

We didn’t get an answer then. We were told, “Nothing is stopping you, and you don’t need my permission to talk to people.” So we talked. We delivered a model. Yesterday, I believe, there was, I won’t say, a productive but constructive with the contracted parties in this room to talk about the beginnings of what is a sketch-out model – I think Fred just talked about that model – about the purpose statement and an accreditation proposal.

Maybe I’ll be more successful here in asking you guys at the table. If, in the next week or two, the people at this table and who they represent – those in this room – can hammer out that model to something that’s satisfactory to everybody, will you

commit to putting that into what you're presenting to the DPAs so that we present something that's more holistic and have a better chance of giving the people in this room and those at the table who are running a model more cover? Because I think the DPAs are going to come back and say the same thing, which is, "If you're going to create a tiered access and give access, I need to see those details," because we've clearly figured out from Monday to know that speaking about this in the theoretical doesn't help. So maybe putting something in writing that everyone agrees to could help and could get everyone in this room something they desperately need, which are assurances – the assurances of these people who are running the system to implement something they're not going to get fined for, and of those who are trying to access the system, that they're not going to dark from your April deadline to December.

Can we get that assurance from you? Because we'd happily work with everybody to deliver something that you could put in.

JJ, to you specifically, because you said, "We need your help," we're offering that help.

JOHN JEFFREY:

Yes. Thank you for providing the help. I don't know exactly what the context of your assurance is, so I don't want to make a

promise. And I'm certainly not going to speak over Goran if he said something different –

FABRICIO VAYRA: He didn't say anything. That's the problem.

JOHN JEFFREY: Let me finish. I haven't been in each room that he's been in, each discussion, but what I did hear him say yesterday was, "If the community brings back models, we're going to look at those. If the community brings back a model that everybody agrees with, that's going to become part of our plan." So there's no doubt about the fact that we want to add this to the discussion. We want this to become part of the model. That's how we got to the model. Had we not taken that approach all the way through and collected models and figured out ways and had 100 communications, we wouldn't have a proposed model on the table. We wouldn't be where we are right now to get to the accreditation discussion.

So absolutely. Bring the accreditation model. Bring everybody together. We're all about that. That's what will help us get to the answer.

FABRICIO VAYRA: All right. Thank you.

CYRUS: Thank you very much. Let's go to Mark Anderson. And a bit of a time check. We have about five minutes, so maybe this will be the last question in the queue. Then we should probably try to summarize what we want to do and where we want to go from here.

Mark?

MARK ANDERSON: Thank you. I'll be quick. I just wanted to respond to something Akram said. You mentioned two models for accessing data today: Port 43 and web. Just a reminder: some of the new gTLDs contracts committed to providing searchable WHOIS. Maybe it's not particularly germane to this conversation, but let's not forget about that. That's problematic for some of the new gTLD operators under GDPR.

Thank you.

CYRUS: Very good point, Mark. Let's summarize where we want to go from here, Akram, JJ, and maybe some of the other folks on the floor.

AKRAM ATALLAH:

I think that we're starting to come together around what we're trying to build here. I thank Keith and Mark on their acceptance of the assumptions that we're making, that, if we go down this path, it's an opportunity for us to get something from the DPAs and we should take that opportunity. So we need the timeline to be able to do that.

I think that, looking at the variables or the still-undefined questions and maybe being able to answers those or make some assumptions around these so that we can say, "This is what we're asking you to do," then we can actually formulate the timeline by saying, "Okay. It will take that much time for implementing this."

I want us to get together and be able to say, "Yes. This might be ideal, but it will take a lot longer," like Mark just mentioned. If we were going to change EPP, that's going to throw the schedule out. Maybe we find a way to exclude these things and say, "This could be done later," or something. We want to come to a timeline that's feasible and that's not going to take us out years because, if we do that, then we're actually hurting ourselves. If we have a chance to get some kind of DPA approval, if we do a timeline that's way out there, we'll probably hurt our chances of

getting that. So we want to make sure that the timeline is also acceptable.

I don't know how we do this next. Maybe we can form a working group and get together, or maybe you guys can collect a few of the questions that are still unanswered that we can maybe come together and find the path forward on before we can come up with a timeline. But we're really pressed on time, so I don't know. I'm looking for your suggestions to move this forward.

Thanks.

CYRUS:

Thank you, Akram. I know we're very mindful that we're asking for a lot in a very short period of time. Hopefully we can all come together toward this week-from-tomorrow Friday deadline. If there are resources, if there's any support you need from us that you think can help you in your endeavor, please reach out to us. We're obviously available to help with it.

If there are no other comments or questions, let's go ahead and close this session. I thank all of you for participating. Good luck with the public forum, and take care.

Thank you very much.

[END OF TRANSCRIPTION]