

---

ICANN86 Seville | PF – GNSO: DNS Abuse Mitigation PDP 1 (4 of 4)  
Thursday, June 11, 2026 – 11:45 to 13:15 CEST

TERRI AGNEW

Hello, and welcome to the DNS Mitigation PDP 1, Session 4 of 4. Please note that this session is being recorded and is governed by the ICANN Expected Standards of Behavior, the ICANN Community Anti-Harassment Policy, and the ICANN Community Participant Code of Conduct Concerning Statements of Interest.

Please observe the following guidelines to participate in the session. I will also post them in the chat for your reference. Only questions posted in the Zoom chat identified as a question will be read aloud during the session as time permits, and when directed by the chair of the session. If you wish to speak, please raise your hand in Zoom, or otherwise, as directed. When speaking, please state your name for the record and speak clearly at a moderate pace. I will now hand the floor back over to Paul McGrady. Please begin.

PAUL MCGRADY

Thank you, Terri. Good morning, everybody. Good afternoon or good evening to those that are participating online. We have an agenda today to get through. It does not look very significant, but we don't know if this is going to be a 30-minute session or if we'll take the whole time. But we are going to go through the Review Scoped Impact Assessment that was circulated some time ago.

---

***Note: The following is the output resulting from transcribing an audio file into a word/text document. Although the transcription is largely accurate, in some cases may be incomplete or inaccurate due to inaudible passages and grammatical corrections. It is posted as an aid to the original audio file but should not be treated as an authoritative record.***

And then we will continue to review, it says continue to review preliminary Recs on Q1-9. But what we're really talking about are the cannot live with or can live with, but would like the following language items. We have two or three, I think. Of those left, we need to knock those out. And so that should take us to the end of our time. Or if we're done early, we're done early.

Let's go ahead and start with the Review Scoped Impact Assessments. For those who are not on the working group team who may be in the room and not know what this means, as a team, we decided to be sort of ultra careful and to do a sort of halftime review of what work we're doing. It is a lightweight review for human rights and data protection issues.

The reason for that is we do not want to publish a preliminary report that has a glaring obvious flaw. And so this is not the fulsome bylaw-level required review on the assessments. It is something more lightweight. It is bespoke. And we are going to just take a quick look at this. This went around on our mailing list. And so at this point, I think what we do, we just move on to the next slide.

And I'll give a little background on what it entails. And then we'll have a queue if anybody has any questions about this. So on the potential human rights impacts consideration, we looked at privacy and data protection, due process and registrant safeguards, freedom of expression and association,

---

nondiscrimination and consistent implementation, necessity, legitimacy and proportionality.

The potential impacts are potential for false positive or erroneous associations, processing or correlation of registrant account or technical data, possible unintended impacts on legitimate registrants, questions regarding safeguards where ADC findings contribute to mitigation actions, and then the mitigation and safeguards kicked around were proportionate and evidence-based implementation, reliance on actionable evidence, that's key, alignment with existing RAA requirements, data minimization and applicable privacy safeguards, contextual and operationally realistic review processes, and efforts to minimize collateral impacts and inconsistent outcomes.

So, the scoped assessment is intended to support ongoing working group deliberations, working group members that were, typo, I apologize, were asked to identify missing issues, gaps or mischaracterizations, or are asked. Final comprehensive human rights and data protection assessments will be conducted once recommendation language further stabilizes across all the charter questions. We'll talk about what that's going to look like at the end, the human rights assessment and the GPI assessments, templates have already been shared with the working group and we will have some additional process guidance as we go.

Okay, so that takes us to the sort of the background on that working group members. Let's open a queue to see if there's any questions

about what this is or any specific questions on the document that was shared with the working group.

Okay, I don't see any hands popping up. So I'm hoping that means we're on the same page. Again, this is not the final fulsome review. This is just the sort of a gut check review to make sure we're not beefing it.

All right, let's move on then to the next group, which is the continued discussions on Preliminary Recommendations. And this takes us to the cannot live with or can live with but would like to some additional language. Again, to review, if you have a cannot live with item remaining on this list, you'll be called on to discuss it. So you should indicate what the problem is you're trying to solve.

I think that's the key thing. Instead of digging in on language, we are talking about a problem and I think that helps us iterate. Explain how it's not already resolved by updates made to the documents and or recommendations as we've been resolving items, we've been updating things. So maybe some of these have already been resolved and we can take them off the plate. Indicate whether or not your proposed text is mandatory from your point of view or if you were open to it being iterated by the working group.

And lastly, I hope we don't have any number fours, but we might. If you are not open to iteration, please confirm that the group that sent you has authorized you to walk away from the negotiation table. If you don't get this specific text.

All right, so we have some more things. So this is a Recommendation Number 3 Note: Implementation Guidance. For the purpose of this policy, reasonably accessible data includes data required to be collected or maintained under applicable ICANN agreements, data otherwise held by the registrar and accessible through its technical systems, and information received by the registrar in connection with an abuse report or investigation.

The IPC's suggestion is move this above to policy recommendation, not implementation guidance, and add in first bullet after ICANN agreement, consensus policies and applicable law. So instead of implementation guidance, this would be text in the recommendation itself, and it would read data required to be collected or maintained under applicable ICANN agreements, consensus policies and applicable law.

Our leadership team suggestion on this was remove implementation guidance in this recommendation as the language quoted above is already existing in contractual obligations. So from our point of view, the contract sort of does it, but let's hear from the IPC, and then let's take a cue on this. Maybe what the IPC is asking for is perfectly fine with everybody, or maybe it's not. So IPC?

MARC TRACHTENBERG

So first off, I want to thank you for your explanation and description yesterday on implementation guidance and how it works. Frankly, I was one of the people that didn't fully understand what was going

on, didn't fully understand how it worked in this context. You know, I think there were others, but if not, then maybe it was just me, and I'm sorry. But I think it was helpful, and I think based on that discussion, it seems clear to IPC that this actually is not appropriate for implementation guidance and should, in fact, be in the policy itself.

We think there is room for implementation guidance in this PDP, and we understand that there has to be some flexibility in some areas, but this doesn't seem to be one of them. This seems like really baseline requirements, and I think what we've been discussing here consistently is some baseline requirements, but with flexibility for other things as well.

And so from our view, reasonably accessed data includes basically, maybe you should say at least the following, but it's hard to conceive of a time when some of these things wouldn't be reasonably accessible to registrars, right? Data collected or maintained under applicable ICANN agreements or consensus of policies or applicable law that's added in, that's always going to be accessible. There should not be a time when that's not accessible.

Similarly, data held by the registrar and accessible through its technical systems, I mean, that should always be accessible. And information received by the registrar in connection with the abuse reporter investigation, that's also going to be accessible. So that should be the baseline standard, and that's not something where

the implementation, the IRT is going to go a different way on it. That's just the basics.

The registrar is always going to have this stuff, and so we think it should be clear in the policy. And people kind of agreed in a language, but the language that people agreed on, we think should just go into the policy itself and not implementation guidance because it's not really subject to, well which way does the IRT want to go on this? It's just really baseline requirements.

And the same thing for kind of the second part of it, which talks about the registrar obligations in there. And so I think in the policy, there's been an attempt to have some flexibility for registrars that have different business models, and I'm not going to debate that in the merits or address that, but that seems to be the way the policy has gone. And if that's the case, then it seems to make sense also to make clear in the policy that the obligations regardless of whatever flexibility there might be in the policy for different business models, that at the end of the day, the obligations are on the registrar.

And it seems, I think, worthwhile to clarify that. And even though it may be stated in other agreements I think we've taken pains in some parts of the policy to clarify things and make sure that some people that review it that maybe are not as familiar with all the different agreements in ICANN also are very clear when they read the policy and exactly what it means.

PAUL MCGRADY

Thanks, Marc. So we are going to take a cue. I guess there's really two questions. One is, is there anything on the list that as revised by consensus policies and applicable law that anybody thinks is not reasonably accessible data? And then question number two is, are there any objections to this becoming text of the recommendation rather than staying in implementation guidance? So it's like a twofold thing.

So Reg is our first -- Oh, Reg put her hands down. Okay, all right. Do we have any contestants? Anybody would like to say -- Volker, your hand's up. Go ahead.

MARC TRACHTENBERG

Oh, so close.

VOLKER GREIMANN

Thank you. I haven't really fully noodled out the effect of moving the policy recommendation up. I just had a comment on the definitions of reasonable accessible data in here because the data that we are required to collect and maintain under the agreements, we collect and maintain them, but they're not necessarily reasonably accessible through our system.

Sometimes that requires database access from developers that we will only use when we actually have need for that data in an audit context, for example. So we have that data, but this may not be always part of the data set that we can use in our standard abuse

---

mitigation searches or ADCs checks because that is data that is buried somewhere in a deeper database.

MARC TRACHTENBERG

I mean, I guess my response to that would be what is reasonably accessible because of your technical architecture is not necessarily the same standard as what should be reasonably acceptable under the policy. And I would just also point out that the guidance isn't that you have to check everything, right?

The question is, what is data that's reasonably accessible and the registrars do have some flexibility under what we've currently discussed and which data elements they look at under the ADC. So I think that would address your concern, hopefully.

VOLKER GREIMANN

Well, I think we've discussed this earlier when Reg and I detailed that what Reg can see in her system may be material different from the things that I can see in my system, how we can perform searches on certain details. I can search for emails, registrant strings and names of registrants, which may be more difficult in a system that's architected differently because that kind of correlation of data was just never needed for the performance of registrar duty.

So the data is in the system, but we have no search tools to access that properly. And to ask us to develop such search tools, which is a highly costly and time-intensive development task that would

---

probably be unreasonable to ask for this ADC check when other tools are available.

So every one of us has tools and functionalities that allow us to do reasonably well-executed ADC checks, but what we can use for that may differ between registrars. Therefore, this fallback on all the data that we are reasonably asked to collect and maintain. Yes, we have that data in our database, but we cannot do an aggregated search for every single bit of that data.

MARC TRACHTENBERG

But this language would not require you to do a search on every piece of the data. This is just defining what reasonably accessible means. And so again, this is the baseline of the universe of what is reasonably accessible and the policy is flexible. So you have the flexibility in your case to not look at certain things that are too difficult for you to look at. I think that is the flexibility that was put into the other part of the ADC. I mean, these things are reasonably accessible. If you're required to collect them, they're accessible to you somewhat. Again, understanding your particular situation, but this doesn't require the creation of any additional tools.

PAUL MCGRADY

Volker, I promise I'll give you another chance. So, I got distracted by something in the chat. And yes, yesterday we had the GAC responding directly, but I have to make sure that we don't end up

---

in a bilateral discussion with everybody else around the table not being involved in that discussion.

MARC TRACHTENBERG

Well, it'll shortly be trilateral when Reg makes her comment.

PAUL MCGRADY

So I'll try to maintain at least some control over the queue while we're doing this. So we're going to have Volker respond to what Marc just said, and then it'll be Reg's turn. And let's see if we can start to evolve this conversation beyond where it sits now, because I think unfortunately, we're kind of digging in on this.

And I'll speak frankly, because at some point, I'm not trying to put my thumb on any scale. But if ultimately there can be no data for ADC checks because nobody has any accessible data, even though they're meant to collect it, then I don't know where we are, right? So Volker, maybe you can tell us how this policy still makes sense if there is no data that's accessible.

VOLKER GREIMANN

Okay, so knowing how compliance works and will interpret this language, they will interpret this to mean that we have to use every single bit of data that is listed in that bullet list. Whereas we are looking at a situation where we want to be able to use data that may include partially that data if it is reasonably accessible to whoever is doing the ADC check. So this is basically flipping it around. We have abilities to do the check, but that check may be

---

different between registrars. Whereas this presumes we have to check everything that is available to us because everything has to be available because it's managed to be collected. And I want to flip that around.

PAUL MCGRADY

Thanks, Volker. So this is a definition. Let's actually at some point go back and put the actual text of REC 3 up so that we see what that means, because that may be the case, but we need to take a look at the REC language. But we're going to hear from Reg next who hopefully comes to our rescue.

REG LEVY

Yeah, I would actually like to see the recommendation as well. But I am okay with this because my recollection is that what the IPC initially wanted was absolutely always in every single case review the registrant data. And I objected to that for a number of reasons, including that that's not often the most reasonable way to do these sorts of checks. And so what I read, this implementation guidance, which is not going to be as gospel for ICANN compliance as the actual recommendation, the way that I read it is that this is the universe of data that is considered to be reasonable. And so something that is in there should be reviewed. Full stop.

PAUL MCGRADY

Okay. Thanks, Reg. Can we put Recommendation 3 up? Okay. So a reasonable investigation by a registrar must consist of reviewing

information reasonably accessible to the registrar in the normal course of its operations to determine whether associated domain names are being used for DNS abuse per 3.18.2 of the RAA. And then it goes on to talk about proportionality and circumstances.

A reasonable investigation must be practical and proportionate based on circumstances and consistent with 3.18.2. A reasonable investigation must not require registrars to access or generate data that is not reasonably available to them, recognizing that registrar capabilities, technical systems, and available data may differ across and within the registrars. Registrars may conduct an ADC by using a flexible, non-exhaustive set of criteria that allow registrars to identify domains that are reasonably linked to the same abusive activity, account, or actor.

So, Volker, I'm going to put you back in the hot seat because we've already -- I mean, this has four or five extra sentences already in here getting you off the hot seat in terms of the belief that the definition of reasonable accessible data would require you to review all of it. Is it really the definition that you're worried about or are you worried that there's not enough caveats in the recommendation language itself?

VOLKER GREIMANN

It's the definition. If we say reasonable data equals that, then that is what compliance will run with. If we go to may include, then that would be a fix.

PAUL MCGRADY

Marc, may include, what's your reaction to that?

MARC TRACHTENBERG

I mean, I think this is the baseline universe. The definition must include all these things. These things are accessible. They're required to be collected. And I just disagree with your view, which I think is somewhat speculative on how compliance is going to interpret this, especially when we've taken great pains to add in these other caveats and other part of the language that make clear that you have flexibility. And so the purpose of the policy to make it clear, I think we've done that. And it's not fair to assume that compliance is not going to understand what we did if we did a good job at making it clear, which I think we have. All right. Thanks, Marc. Reg?

REG LEVY

Yeah, I do think that with the policy itself saying technical systems may differ, that that trumps the guidance.

PAUL MCGRADY

Thanks, Reg. And so that's the argument of why it should be implementation guidance rather than in the recommendation itself.



And again, without this in the policy, you create kind of the loophole that Paul said, which is the registrar can set up its system so that it can't access any of the data. And that would be problematic. And I don't think anyone sitting here will do it, but the policy is not for the people sitting at this table. It's for the other registrars that are not here that currently are not doing ADCs and don't want to.

CHRIS DISSPAIN

Okay, Chris. One very quick response. Thank you, that's clear. So that kind of begs the question, why shouldn't it go in? I understand what you're saying. I'm not clear why. We can argue about, I don't care about the red words. I just care about the principle. Why should it not go in? Reg said it shouldn't go in. Fine, why? I don't understand why.

PAUL MCGRADY

Thanks. So Reg has her hand up. We'll hear from her after Rod. And maybe you can address that, Reg, and then anything else you intended to say. Rod.

ROD RASMUSSEN

Thank you. Rod Rasmussen, SSAC. I apologize for not making the connection before that when I read through this that this is in the implementation guidance because the language matches what we've been talking about, I thought very well. The concern I wanted to flag is the third bullet here, which I think we've been

---

pretty consistently bringing up, in that if somebody provides you with information about a pattern, that should be considered reasonably available.

This is one that seems that if you don't put it in policy, and again, this is how does policy versus implementation advice work, but if you don't have it in policy that the information that is provided to you that would give you a pattern, that would definitely let the bad actor, registrar, or whoever it is that is trying to avoid accountability say, oh, I don't know about that. I don't have to pay any attention to the things that are being reported to me if it's not part of the policy that can be enforced. So that's a problem we would like to see addressed however this comes out in this discussion. Thanks.

PAUL MCGRADY

Thanks, Rod. Reg.

REG LEVY

Thank you. Could whoever is driving go back to the document and set the 200% to 150% and double-click on the space between those things. Thank you, right there. All right, so that now we can see it all kind of on one page.

Okay. So there is a request in our back channel to potentially consider whether technical systems should be normal course of operations because that would get around the ability for some registrar to redo their technical systems so that they can't do those

---

searches, so it's not reasonable, which is to say it would not be reasonable for them to perform the search because they've set it up in a way that makes it unreasonable because that's not normal operations.

And to Chris's question about why we want this in the implementation guidance and not in the policy is because we want the flexibility to perform the checks the way that it makes the most sense to perform the checks, and so if we are being too prescriptive as it feels like we're drifting back toward, then our hands are tied and we're forced to do certain types of checks that are meaningless and aren't going to accomplish what this policy is attempting to accomplish.

PAUL MCGRADY

Thanks, Reg. I think we'll go back to Marc.

MARC TRACHTENBERG

I mean, I don't think this is being prescriptive. I mean, maybe it would have solved the problem if we put in implementation guidance, something that says that for clarity, registrars are not required to check all reasonably accessible data elements. I mean, that would seem to address. I mean, I think it's already addressed in here with all the caveats we put in, but maybe that's another caveat that we could put into the implementation guidance after we put this into the policy. Would that address the concern?

---

VOLKER GREIMANN

Thanks, Marc. We have Volker next. I think it would go a long way to that, yes.

MARC TRACHTENBERG

I guess so. Would it address it for Reg, then, if Volker's on board?

PAUL MCGRADY

Well, we'll have Reg. Reg will raise the hand if she wants. We can't compel speech. So let's think about this. Oh, the hands. Go ahead, Reg.

REG LEVY

Well, there was someone before me in the queue. There was Volker before me in the queue. I think it's fine the way it is. I feel like your concerns are covered in implementation guidance, and bumping it up into policy creates concerns that I thought that we had resolved the last time that we went over this. To Rod's point on the third bullet, I think that, again, it's necessary the way that it is because that gives us the flexibility to, if somebody provides a significant amount of data in the report, we can use that, and if they don't, we don't have to.

PAUL MCGRADY

Thanks, Reg. Okay. Back to Rod.

---

ROD RASMUSSEN

Sorry, I'm getting distracted. So the point I was going to make, and I think Reg, you may have just touched on this, the third bullet would probably read better if it said information received by the registrar in connection with a well-evidenced abuse report instead of just any abuse report in order to address the concern that somebody's just randomly shooting stuff at you that doesn't have backing or good research.

PAUL MCGRADY

Okay. Thanks, Rod. We're going to go. So I think we're going to bypass you for a second, Marc, because Reg, would you like to respond to Rod? Okay. Let's keep that thread going for a minute. Go ahead, Reg.

REG LEVY

Okay. So in connection with any abuse report, that means that three years ago, I got a report about reglevy.com, and now, today, I get a report about alexlevy.com, and I'm supposed to remember that three years ago, somebody responded to me about a very specific case that this is now back on the menu? No, absolutely not.

PAUL MCGRADY

Okay. Marc?

MARC TRACHTENBERG

I mean, I guess I would say that, in accordance with Chris's question, I still haven't seen a reason not to put this back in with

---

the kind of compromise of putting in this language in the implementation guidance, making clear that the registrar does not have to look at all of the reasonably accessible data elements that would seem to address the concerns, and I just hear Reg saying that, like, I don't like it and don't want it in there, and so I'm not sure how we resolve this situation. I mean, no one else seems to be objecting. Is one objection enough, or?

PAUL MCGRADY

Yeah. So let's not call the question yet, because I'm not sure that the baseline is the IPC position. I think the baseline is the document that we've all been iterating, and so I don't think you want to call the question yet. Okay? Let's see if we can get there.

So first of all, there's an inconsistency I just noted here. So it says reviewing information reasonably accessible, but then we have a definition about what reasonable accessible data is. I don't know that information and data are the same thing, and so I think that's, like, an internal inconsistency that we need to figure out. Is our problem where the word reasonably is in this context? Is the issue, really, whether or not it's accessible, which was one of the things that Volker was talking about initially, but the conversation seems to have evolved into what a reasonable investigation is, right? So a reasonable investigation by a registrar must consist of what, right?

I mean, that's really the question that we're asking. It's not so much the data definition here. That seems to be how it's evolving, right? Because we're talking about putting caveats into

---

implementation guidance or those kinds of things. So, Marc, can you talk to that a little bit? I'd like to see if there's a fix around the word. We've got reasonable in here twice, right? Is there a fix around that so that we can get to clarity on what accessible data is without losing the clarity on the registrar's ability to apply a reasonableness standard into what data elements they review?

MARC TRACHTENBERG

I mean, I'm not sure. I can tell you that when the IPC was discussing this, we weren't really talking about the investigation part of it. I mean, the investigation part I think our view is definitely it shouldn't be at least one element, and it's not worth debating that right now. You know, this really was purely just discussion of kind of the baseline universe and the definition of what data is accessible.

The investigation part is a different piece, right? The investigation part is how much of the available data does the registrar have to look at, and that's not what we're discussing here. It's just what is the universe of things that it's reasonable to say the registrar could have looked at, and that's really the purpose here.

And again, we just can't really understand any reason why it shouldn't be in the policy. I mean, these are things that the registrar's required to collect that has to be accessible, and this resolves any ambiguity about whether something is accessible. But the flexibility exists in other parts of the policy and in this

---

recommendation itself that lets the registrar select which elements it's going to look at in a particular ADC investigation.

PAUL MCGRADY

Thanks, Marc. Brian.

BRIAN CIMBOLIC

Thanks, Paul. So, actually, I have a question for Marc, and I want to make sure I understand. The concern of it being in the guidance is that you're concerned that the IRT could modify or change or get rid of this when you view it as a core piece, correct?

MARC TRACHTENBERG

I mean, correct, they could do something with it, but, I mean, again, this does not seem to be open to really interpretation. It's just the registrar is required to have these things and collect them so they should be reasonably accessible. No one should be interpreting that whether -- I mean, we're just kind of struggling to see why this would be objectionable. The registrar has to collect these things.

BRIAN CIMBOLIC

Can I just then tease that out a little? Volker, did I hear that you would be comfortable if this was in the policy, if there was a carve-out saying, for the avoidance of doubt, the registrar doesn't have to check all of these elements every time? It just has to do enough to have conducted a reasonable associated domain check?

---

VOLKER GREIMANN

Like I said, this would go a long way, but I'm not willing to commit at this time. I think it's difficult because there's a lot of data that we're required to collect and that we have somewhere, for example, logs of renewal reminders, the old abuse tickets that we may still store in the old deprecated ticketing system that we're no longer using, but still maintain a database off that we can look at if we need to, but don't have regular access to database histories that we maintain, but that are not in a live database, so that would also require developer work.

That's all data that we are required to collect, required to maintain, but that is not reasonably accessible. And if I hear you saying, Marc, that everything that we're required to collect is by definition reasonably accessible, that is just not corresponding to reality.

PAUL MCGRADY

Okay, so Volker, I'm going to challenge you on something because we do need people to commit at this time. We're all together. This is the topic. So we don't want to start saying, well, I'll get back to you later because we're here today together. So we do need to keep evolving this until we get there, but I think we're getting there.

I see some back and forth in the chat with regard to the abuse report, so I expect that might get worked out in the chat and then either Rod or Reg can come back and tell us what's happening on that. On Brian's suggestion, we've already got proportionate.

---

We've already got, what's the other language here? Practical. We've already got flexible. We've already got non-exhaustive. That's in the recommendation language.

I mean, I think that Brian's proposal in the chat, for the avoidance of doubt, the registrar is not required to review every element of the information reasonably accessible to it but must review sufficient elements to have conducted a reasonable associated domain check is as explicit as it gets. And so let's talk about that. Volker, Reg, anybody else that wants to talk about that.

Can this definition make its way into the recommendation if we have that explicit of a statement? All right, we have Reg and Vivek and then Martina, but Reg.

REG LEVY

So Carlos dropped this into the chat and I want to raise it here that we already have a bunch of caveats, but putting this into a formal policy requirement seems to address a very specific concern that's not going to be applicable across all business models. And so there are some registrars in our back channel that are totally fine with this and others that are violently opposed to this. Because there are so many different ways of doing registrar, that's why we'd like to leave it as is.

PAUL MCGRADY

All right, I guess that my challenge to that, I keep going back to, which is there are all kinds of ways of doing registrar. I think that's

something that the working group has embraced. The one kind of way of doing registrar that I hope nobody in the working group wants to see is the kind of way of registrar that accesses no data and does no ADC checks, right? So we're not quite there, I get it, but we got to keep iterating until we get there. We have Martina.

MARTINA BARBERO

Thank you very much, Paul. And I have it, the GAC does not have a strong opinion. We're trying to understand, we're hearing all the arguments. I just wanted to bring up real life experience from public sector in case that helps.

Every European citizens can do a transparency request, asking me to share all my emails and everything that I did on a file. And then we need to decide what is reasonable to share. And reasonable can be everything that I have on my laptop, everything that me and my 10 colleagues have on their laptop or on the cloud, everything in the past 35 years that has been registered somewhere in the commission systems that I don't have access to because the systems were discontinued, right? And this is not something that can be solved in the policy itself because the policy cannot contemplate all the possible cases. That's a bit of a case by case assessment, I'm afraid.

So I feel that we're in that type of situation with this reasonably accessible, meaning that it's not a determination that can be easily embedded in a language that satisfies everybody. It's going to be a bit open to interpretation and I guess from case by case. But I feel

---

we're also missing two things and I don't really know how to approach that because we are mixing this question of reasonably accessible with a question of the data elements that we know that exist somewhere in the registries.

And I wonder whether we shouldn't maybe discuss a bit further, divide this question of what is the investigation as you said, Paul, and what is the data because I think we're mixing the two up a bit. Probably we need a dedicated discussion again on data elements on one hand and what is reasonable to expect from compliance. But just to say, this is not, I think, something that is specific to registrars to the fact that not everything is reasonably accessible, I think.

PAUL MCGRADY

Thanks, Martina. No, I think there's some wisdom there. And again, it's two different concepts, right? But let's keep going. I think we're probably just missing one or two words somewhere in this document. So for example, a registrar must consist of reviewing relevant information reasonably accessible. I don't know. Maybe that's it. Let's keep talking. We're going to get there. Marc.

MARC TRACHTENBERG

I'm okay with relevant and I like Brian's language. And to your point, there's like five caveats in there already, flexible, proportionate, blah, blah, blah. With Brian's language, I mean, there's no doubt. It's crystal clear that the registrar has flexibility

in what it looks at. And so this does address the concern of registrars operating different business models. And the fact that registrars may operate different business models can't stymie the entire policy and can't stop everything. And there's enough flexibility built in.

I'm not throwing any shade on different business models. It's fine, it's great. But the flexibility is in the language that already exists. And with Brian's additional crystal clarity on that additional caveat, there's no doubt that I think registrars have protection to say that my model is different. This is what I chose to look at.

PAUL MCGRADY

So this is, I'm just, I'm spitballing as they say. I don't know if that's, if that translates outside of the Midwest. Apologies. So what if it said a reasonable investigation by a registrar must consist of reviewing relevant information promptly accessible because we use prompt, promptly accessible. In other words, if we have to respond promptly, that means we can't build a new data dig system to dig data to respond promptly. We can't have a three week delay as we hire developers to get to the data. So is it promptly accessible? Is that what we're trying to get to? So there's a straw proposal on that. Reg and then Marc.

---

REG LEVY I'd like that proposal to be made a note of. And then I'd like to request that we put this conversation on hold so that the Registrar Stakeholder Group can itself come up with a formal position.

PAUL MCGRADY All right, thanks Reg. Let's keep going, we still have time. We may have to do that.

REG LEVY But we don't, like we're not aligned. We're talking in chat and we want to yell this out. So if you want to give us 10 minutes alone, that's fine. But I don't think we're going to be able to come up with that right here in the room because we are not aligned.

PAUL MCGRADY Can you come up with it in 10 minutes, do you think?

REG LEVY I don't know, but it's better than nothing.

PAUL MCGRADY Okay, well, let's hear from Marc about promptly. And then how much time do we have? We have 45 minutes. I'm not opposed to a 10 minute recess. If we can get this done, Marc.

---

MARC TRACHTENBERG

I don't like promptly. I mean, there's enough copy outs. No, I mean, there's enough copy outs in there. It's just like adding in another ambiguity and I just don't think it's necessary, especially with Brian's proposed language. It's crystal clear that the registrars have discretion. And so adding in like another prompt here reasonably, it's like a reasonable, reasonable, reasonable prompt, like it starts to be meaningless after a while.

PAUL MCGRADY

Okay, all right. Well, I guess, this is where the rubber hits the road as a chair and it's uncomfortable. Marc, has the IPC authorized the two of you to walk away from the negotiating table if you don't get this?

MARC TRACHTENBERG

No, that was not discussed. I guess he feels very strongly about it and strongly enough to put it in a can't live with, but you know, we're not trying to throw grenades. We just want to find a reasonable compromise.

PAUL MCGRADY

Okay, all right. Because that was number four. You know, I sent out the email on purpose so that you would have a chance, everybody would have a chance to talk to their constituencies about this. And so, I mean, if this really is a can't live with, that means you'd rather have no policy than what we've got. So we weren't able to reach a conclusion on what the IPC was asking for. I think it would be great

---

if the registrars are willing to get together to see if they can come up with a way to accommodate the IPC. And I don't think we'll take our 10 minute recess for that, but we didn't get there. And so the IPC needs to make a decision about whether or not this really is a can't live with.

Okay, let's move on. Okay, Recommendation Number 3 Notes: A reasonable investigation must be practical and proportionate based on the circumstances and consistent with section 318.2. A reasonable investigation must not require registrars to access or generate data. The NCSG suggestion is a reasonable investigation must be practical, narrowly scoped and proportionate based on the circumstances and consistent with 318.2.

A reasonable investigation is not a general audit of the registrant's broader portfolio and must not require registrars to access or generate data that is not reasonably accessible to them at the time of review. And this is sort of the flip side of the thing that the MPOC gave ground on yesterday. This is a way of addressing that concern that an ADC does not require a full audit of everything. It just looks at the particular relevant data. So NCSG, who's the champion of this particular change?

MICHAELA SHAPIRO

Hi, good morning, Michaela for the record. I mean, I don't want to throw a wrench into the discussions. I know it's linked to what we were just discussing earlier. So I'm a little cautious of, yeah, I don't

---

want to cause conflict across the text if one part lands in one direction and then we come in on this and it doesn't align.

But I guess to give a kind of general idea of what we're trying to propose here is perhaps it could address some of the elements that we were just discussing around the scope of the investigation by clarifying the purpose here and perhaps putting some parameters around what we would not like to see here could help.

So really the kind of, at the time of review was trying to kind of get at that point that Reg and others have mentioned around, again, what is the requirement on the registrar and what are they incumbent upon to look at versus what is possible for them to gauge, or sorry, not gauge, that's not the right word, what is possible for them to obtain? And similarly, having that copied of the general, it's not a general audit. We're also hoping that that kind of gets at that data kind of minimization element as well.

And similarly, that's where narrowly scoped comes in. But again, if the language around like a reasonable or reasonably accessible, I think there's some synonyms that we could live with that perhaps when we put this in hadn't been discussed yet. So happy to answer questions and hear from others. I see there's a lot of hands at the chat, so I can stop there.

PAUL MCGRADY

Thanks, Michaela. Yeah, I don't want to reopen up the reasonable, accessible and all that again, because that wasn't the change that

---

you proposed. So I want to just stick with your proposed change, which has to do with not requiring a general audit. I'd like a cue of anybody that would like to speak against general audits or for general audits at this time. So Volker, go ahead.

VOLKER GREIMANN

Yes, well, I'm very sympathetic with the intent here. And I could probably underwrite every single one of those. I think they're misplaced because putting them after a 'must' puts them in a place where we would be prohibited from doing that if we chose to. I think all the red marked topics could be in a secondary sentence that would be prefaced by a should, that would basically allow us to do a deeper inspection where we feel necessary.

For example, if we are encountered with a very harmful crime or a very impactful issue that may require a broader scope audit type investigation internally and where we feel that is reasonable and possible and promises a certain number of additional hits, then why should we be prohibited from doing that? So the must is the problem here.

PAUL MCGRADY

Thanks, Volker. Michaela, are you comfortable with that thing that sometimes an audit is appropriate?

MICHAELA SHAPIRO

I think this may be one that would be helpful to have a very, like, I don't know. I mean, we haven't spoken in length on this one. As a

first response, I can see how the 'must' can be problematic. And I also recognize that this was submitted prior to having a discussion across the NCSG and the contracted parties yesterday.

So I do want to say there's more wiggle room here than perhaps was reflected when we first submitted this. So I think, again, if there's some of these kind of parameters in other places that could have the same outcome when it comes to not requiring this to be a general audit always, I think that should be reasonable. Sorry, long answer for a short response. Yes, I think that should be okay.

PAUL MCGRADY

Thanks, and I do see Volker's grammar catch there, right? So a reasonable investigation is not one where there is a general audit, right? But there are circumstances, Volker thinks, where that kind of audit would be reasonable. So we'll move it. Staff will capture that idea and can suggest some softening language to where the registrars can do that if they want to. Assuming that we don't talk ourselves out of that, but that's the thinking now. Marc, go ahead.

MARC TRACHTENBERG

I agree with Volker and the direction this is going, but in particular, saying that the investigation must be narrowly scoped is problematic because depending on the evidence found, I think to Volker's point, it could warrant a more broad investigation and the registrar needs the flexibility to be able to do that if they want to,

based on the evidence they may find, especially with the evolving complexity of DNS abuse.

And same thing for the general audit. I mean, I think we don't want to say they have to do a general audit, but in some cases, again, depending on what the evidence shows, maybe they think it is wise to do that.

PAUL MCGRADY

Thanks, Marc. It sounds to us like there's agreement that this should neither compel nor completely prohibit a general audit if the general audit is reasonable. All right, Martina.

MARTINA BARBERO

Thank you very much, Paul. And I think I want to appreciate Michele's flexibility to maybe workshop a bit the language because the GAC as it is, is not really comfortable with this language being after the must. I think we would be more in line with something as proposed by Volker.

Specifically also for the last part, at the time of the review, which for us, it's a bit restrictive because first of all, maybe a registrar wants to ask more information to the reseller, and then this information might come in batches. So they send a bit in 10 minutes and then after one hour. So it's very specific. So, I mean, I think we can try to leave with some of this language moved in a separate sentence. But as is, I think it would be a bit problematic from our perspective.

---

PAUL MCGRADY Thanks, Martina. All right, Brian.

BRIAN CIMBOLIC Yeah, thanks. Actually, I don't need to come on. I agree with Martina and Volker and Marc.

PAUL MCGRADY Lawrence.

LAWRENCE OLAWALE- Thank you. So I think we are generally agreed that to a very large extent, we want ADCs conducted to a point where it doesn't impact on persons, registrants who shouldn't or who don't have any problem based on the investigation ongoing. So where we introduce the wordings in red, narrowly scoped, for instance, means that the investigation might not be detailed to a point where you're also conducting ADCs to a careful standpoint.

Aside from that, the other language also speaks to the same issues. And I think that's where we want to come out with outcomes that don't penalize registrants. It must be carefully done. And to that extent, we shouldn't be restrictive of how registrants conduct this.

PAUL MCGRADY Thanks, Lawrence. All right. We are back to Michaela.

MICHAELA SHAPIRO

Just wanted to check, Martina. That was an old hand because I see you're ahead of me in the queue. Sorry. No, just to say, yeah, I'm glad that the flexibility is appreciated. Just wanted to concur with what Lawrence just put out there. I guess maybe just a clarifying question.

Perhaps to the GAC, not to put you on the spot, Martina, but just to double check that I understood the concern is about timing, like the ability to check evidence, perhaps that comes in later on. I just want to understand, I guess, where the concern at the time of review comes in because my understanding is the CPH, or at least the registrars, are generally happy with that language. So just thinking how we can find a compromise on that.

PAUL MCGRADY

Martina, go ahead.

MARTINA BARBERO

I think, I mean, speaking about very strict and narrow-minded interpretation of rules, if I conduct my ADC at quarter past 12, but I receive very substantiated information at half past 12, and my review has been concluded by one minute, I would be a bit afraid. And I think the review will take, in some cases, hours when it will include asking data to resellers, for instance.

So I just, I don't know, that language does not seem very flexible in terms of how, like, we're not asking to collect additional data that

---

does not exist, but we need to allow for information to be requested to the resellers, for instance, or maybe have an exchange with the reporter and saying, do you have more data? And the reporter sends more data.

So I don't know if giving a time window that is so specific, at that key point in time, is in real time, unless we interpret review very broadly. But again, I don't know how compliance will interpret that. So that's why we're sitting in a bit of a difficult position.

PAUL MCGRADY

Michaela.

MICHAELA SHAPIRO

Yes. Hi, Michaela, for the record. To Martina's point, and I, again, it would be great to hear on it from a domain operator on this, but my sense was it wasn't quite that, the interpretation to me would not be that, to the minute, precise. It would be until the investigation is concluded. But yeah, very happy to kind of hear from others on this. Thanks.

PAUL MCGRADY

Any objections to until the investigation is concluded? Gabriel.

GABRIEL ANDREWS

Not an objection, but the hand was before that. I just wanted to ask of Michaela, because I don't think I heard it. What is actually the

---

rationale behind the insertion of that text? Like, I'm not quite understanding what it is intended to achieve or prevent.

PAUL MCGRADY

Michaela? So I can understand the question, myself, Gabriel, you're asking, why did the NCSG put in that last bit? So that goes back to, what is the problem we're trying to solve? What's the problem we're trying to solve with that text?

MICHAELA SHAPIRO

I think it goes back to, again, perhaps the concern around this not becoming a general audit of the registrar's broader portfolio. I'm also happy if others on the NCSG want to come in, but that's how I interpreted it. So perhaps if we do have clarity on the bit about it not becoming a general audit, and again, we've already discussed some of the other language here that could be softened that I think would address the kind of broad, the concern about it being the kind of overly broad. I think we could live with perhaps a change to that last bit around the time of review.

Sorry, I was also distracted because I was trying to keep up in the chat and there's a really good question from Becky just around the fundamental approach here, and there could also be some language that we could think about discussing, perhaps not in this moment, but at a later stage around where else this language could go, like whether the focus is not solely on constraining the contracted parties, but around the kind of compliance bit. So I'll

---

just stop there, but I was trying to follow both at the same time.  
Sorry.

PAUL MCGRADY

Thanks, Michaela. It's hard to do, right? We have Reg?

REG LEVY

Thanks. And I understand that the NCSG is concerned about audits against registrants. I think one of the primary reasons for their concern is that very often even in the age where it is extremely easy to purchase identities that we may be reviewing registrant data of someone who is completely innocent of the guilt associated with this domain. And so what I understand this to be trying to get at is to make sure that the Reg Levy who registered terrible malicious domain.tld is not associated in any way with the Reg Levy who registered reglevy.com and that that's a lot of what this is trying to go for. Does that make sense?

PAUL MCGRADY

Thanks, Reg. Brian.

BRIAN CIMBOLIC

Thanks, Paul. Yeah, Brian Cimbolic for the registries. I want to come back to something that Becky put in the chat that the framing of this is interesting in that why are we focusing on restricting what a registrar can do under this as opposed to restricting what ICANN

---

can require? I think that that's something that potentially the NCSG should consider.

On the substance though, I have a fundamental issue with the language is written. I think the notion of prohibiting an audit of a registrant account is too restrictive. If a registrant has five domains recently registered, one of them was confirmed malicious phishing, it strikes me as an unreasonable prohibition that you can't look at the other four domains in that portfolio.

Similarly to Volker's point, if a registrar, so long as it's doing so in compliance with its agreement with the registrant and in compliance with applicable laws, I don't see any reason why we would want to restrict how a registrar conducts its associative domain check. There should be minimums. I agree with that. But if a registrar wants to conduct a comprehensive analysis of the evidence available to it, because again, remember the fact pattern here is the triggering event is that the registrant has engaged in malicious DNS abuse.

So at that point, I don't understand why we would restrict the registrar from conducting a comprehensive review. I think that that would be ultimately just being upfront. I think that that would be extremely counterproductive to what we're trying to accomplish here for this policy.

---

PAUL MCGRADY

Thanks, Brian. I do think we've already addressed that point though, right? Where we said that this neither compels a full audit nor does it prohibit a full audit that there is registrar discretion.

BRIAN CIMBOLIC

So if that's what I heard, that if they're okay not having it be that it must be narrowly scoped and is not an audit. So if we're okay removing those two red languages, then great. But I don't know if I heard that specifically.

PAUL MCGRADY

It's not so much that we're removing them. It's that we're moving them down into the suggestion is that they be moved down into a like a rationale paragraph that says that there are times when a full review full audit may be appropriate. But nothing here compels that.

BRIAN CIMBOLIC

Great.

MICHAELA SHAPIRO

Yeah, Michaela for the record. No, I also want to concur just to say, I completely empathize with the goal in mind. I think just what we are concerned with is that there will be registrars who may not have the best intentions when they're going through the ADC check per se. So we're just trying to figure out how we can find a way to balance both those concerns and the need to address the very real

---

issue. So I don't want to say like we're trying to stop registrars from doing their best to address this. So yeah, I think if it's reflected in another capacity and in language that is more comfortable with the broader group, absolutely don't want to, similar to what we were talking about before, we don't want to derail this process by any means.

PAUL MCGRADY

Yeah, that's fine. Yeah, and it sounds to me like we're all sort of orbiting around the topic now. We just need the new language to be iterated into the next version of the document so that we can look at it. But I don't think anybody's pushing back on the concepts anymore. I think just Brian was just seeking clarity that it was going to be handled in some way. Farzi, hi.

FARZANEH BADIEI

Hello, Farzaneh Badiei speaking. I would like to read this. Oh God, I lost it. So Alexander Oglia in chat says, an investigation which is inherently time-bound should not be confused with placing a client's account under surveillance. I read his message because we have been consistently saying this from day one. And I thought maybe hearing it from somebody else would freshen it up.

And another thing is that also Becky is mentioning that why we are not focusing on, I don't want to misframe what she's saying. Anyway, I can't find it. Gosh, this Zoom chat. So basically, as much as I know and we've been having conversations with ICANN staff on

the data protection, ICANN, we don't have like enforceable data protection contracts for the registrars to kind of protect their domain and registrant data regardless of their jurisdiction.

So ICANN does not have that enforcement power that if a registrant feels that there was not enough data protection by their registrar, if they don't have a data protection law in their country, they cannot go to ICANN and appeal and say that their privacy was violated.

So because we don't have that, at all this policymaking, we need to make sure that we don't put the registrant and their privacy at risk by what we are asking the registrar to do. And it's not only about privacy. As we have said before, it's about proportionality as well. Investigative methods need to be proportionate to the abuse. And so these two things that we wanted to say, but we are, of course, willing to look at what other languages can be used in order to come to consensus on this.

PAUL MCGRADY8

Thanks, Farzi. That takes us to Thomas.

THOMAS RICKERT

Thanks so much, Paul. I am looking at the suggested edits. I think that from a non-native speaker's perspective, I think that the solution probably lies in the word proportionate. To me, the word proportionate covers the entire actions that the registrar or contracted party, as the case may be, needs to take. So if the action

---

is proportionate, that means that by nature it's narrowly scoped because it can't go further than what is proportionate.

Also, if it's proportionate, it can't be a general audit, right? And also, if it's proportionate, it can't cover time spans that we don't want to be covered. So maybe we need to be more explicit in explaining these general terms. But I think that the word proportionate makes the additions that are proposed redundant.

PAUL MCGRADY

So thanks, Thomas. And we can capture that in the rationale language, right? Because their proportionality may, in fact, require a general audit if it's like a really, really bad guy.

THOMAS RICKERT

That's my point. That's my point. So for Brian's example, with the person having five domain names in the portfolio, proportionate means you can look at all of them. Whilst with the example was given of a WICS, WICS being an account and then it might not be proportionate to look at everything. So maybe we can do the trick by explaining what the word proportionate covers. And that maybe can help with all the aspects of this.

PAUL MCGRADY

That's great. Yeah, I think that's a good suggestion. Staff will capture that as they build the rationale. Well, I'll turn my own microphone off. That's the end of the queue on that. I think that we have what we need on that one to iterate the document and

---

come back with something that everybody is extremely likely to congeal around.

All right. Is this our last one? Oh my goodness. Okay, we need to pick up speed. Rec 4, to determine whether association exists, a registrar must take into consideration potential indicators such as the registered name holder or account related information and or technical or coordinated activity/behavioral indicator that is reasonably accessible to the registrar and most likely to yield useful and actionable information. The NPOC suggests to determine whether association exists, a registrar must take into consideration one or more relevant indicators and the rationale there is potential indicators is too broad.

I do note that we have discussed this one in the past and did not end up at one or more relevant indicators and primarily because there was concern about false positives when you only look at one indicator. But the NPOC put it in as something they can't live with if they don't make the change, meaning that they're prepared to walk away from the table. So let's hear it again. NPOC, who's going to champion this one?

YAO AMEVI SOSSOU

Hi, Yao speaking for record. So we are not prepared to walk from the room because of that. So just to make that clear. Yeah, as you mentioned, we're also not having a clear indicator of what should be rational about the --

THOMAS RICKERT

I'll just put it on my rope.

PAUL MCGRADY

Tom, I think you may not be muted and we're hearing you in the room. Go ahead, Yao.

YAO AMEVI SOSSOU

Okay. So around the rationale, relevant indicator. So that's why we put that in and it's not, of course, it's more about language change more than we can't live at that point because most of the issue we were discussing that area kind of been tackled already, but still wanted to reiterate that we went in the document, for federal admission, those change which from our perspective will look more like a language change we would appreciate to have in the final policy document.

And I also wanted to mention that they, in terms of indicators, like if I can suggest that there is this domain Metrica indicator that has been reviewed on a periodical basis, that could be indicators which we could explicitly use as relevant in that case, for example. So just wanted to add that. I'm fine with putting that down as long as it could be part of the language change here.

PAUL MCGRADY

Thanks. And so for clarity, this has been downgraded from a can't live with to a can live with but would like to have?

YAO AMEVI SOSSOU

Yeah, but the main issue is that to avoid that the broader portfolios is keep to be the indicator need to be meaningful and associated with the abuse actually. So as long as we get that, I think we are fine with this.

PAUL MCGRADY

Got it. Okay. Thanks. So that goes back to relevancy, and it's not a full-on audit. Okay, Reg, then Martina.

REG LEVY

What's the original? This doesn't look like it's merely added. Was something removed in addition? Because the original did not just say a registrar must take into consideration. Thank you. Can you highlight it?

PAUL MCGRADY

It went away on me.

REG LEVY

Sorry, which part of this is the original? Can you highlight it? Thank you.

PAUL MCGRADY

So it's potential indicators and the proposed language, which is not a cannot live with, but I prefer to have is one or more. And so that's the question, which is do we, do we want to go back to one or

more? We've talked quite a bit about it. If we don't want to go back to one or more, is there a word to add or is there a rationale to add or something to address the problem, which I'm deducing the problem has, is it back to the full audits problem? What's the problem we're trying to solve?

YAO AMEVI SOSSOU

No, it's basically also linked to the full audit problem trying to solve here. And because we don't really know based on which are the indicators we are using to conduct this full investigation. So the fear we want to raise here and as again, I said, it's more now that we understand the broader scope of the policy where we are heading in. We agreed that could be a language change in the policy rather than can't leave it. Okay.

PAUL MCGRADY

All right. Thank you. All right. So that takes us to Martina and then Vivek.

MARTINA BARBERO

Thank you very much, Yao and Paul. I think, I mean, it would be great if we could have some alternative text suggested not in this sentence, but to address this audit concern because as it is, I'm afraid that the GAC is not ready to go back to the one or more. And I think we're very happy with the solution found and the text provided. So if there is a concern about OTID and I understand this concern touches upon different recommendation, maybe we can

---

find a place to address that concern with language that is new language that we can all live with without maybe reopening this recommendation.

PAUL MCGRADY

Thanks, Martina. And I think that there may be, maybe we could call on the NPOC to come up with another bullet point on preliminary implementation guidance or something that deals with this concern rather than attempting to revert the prior discussion. Vivek.

VIVEK GOYAL

Thank you. I have a point, a general point to make not on this topic. So I can wait for Volker if he has a point specifically on this.

PAUL MCGRADY

Great. Volker.

VOLKER GREIMANN

Yeah, I don't really see what this would change. It already reads that we must look at indicators. So that for me includes one or more. So it's nothing that I would now say that we as a registrar or at least speaking from my perspective, I as a registrar would oppose or favor. If it's there, it's there. If it's not there, I don't care.

PAUL MCGRADY

All right. Thanks, Volker. Vivek.

VIVEK GOYAL

Yeah. Thank you. I will say what is my understanding of what we are doing and if that is incorrect and please help me so that I can have the discussion back with BC, and Marc, and CSG members. The aim of the only change we are making, we are expecting to make in the contract is to ask that if a domain which was reported was found malicious based on the current contract, you check if there are other domains, check. Checking a domain does not mean you take it down. What we are saying is you check the other domains and if that domain is found to be malicious as per the existing contract, then you take action.

So somewhere I would like some clarity to understand that why is checking, just checking of other domains a concern as to what is wrong with just checking the other domains. I saw some mentioning that we should not check the other domains because that would include suffering to other people. I would like to understand why just checking is a cause of concern.

The second point I would like to make it yesterday, ICANN, there was a news article that ICANN has issued a breach notice against trust names, which calls itself a bulletproof registrars. Whenever we are discussing policy, we tend to think that okay, how would somebody who does not want to do any ADC, does not want to take action against abuse, would use these wordings to avoid taking any action.

---

So if while we are discussing this, if we can not only think we are penalizing the ones that are already doing the good work, that is not our intention. Our intention is how do we get registrars who are not doing anything to use the language here to wiggle away from continuing to not do anything. That's our aim. We are not trying to force or penalize registrars who are already doing good work. Thank you.

PAUL MCGRADY

Okay, that's the end of the queue on that one. Sounds to me that the NPOC has homework to come up with a bullet point in the implementation guidance that addresses their concern and we're going to stick with the language that we have now, but with the implementation guidance that we can kick around together next time we're together.

I'm not specifically addressing Vivek's concern because it's a philosophical question. I also think that we've talked about that and I also think that no one like even just, for example, the Michaela's willingness to bend on the full audits, right? And other things indicates that everybody is rowing the boat in the same way. So if there are philosophical questions people want to get into, let's do it off, to the extent we can do it off the microphone. Farzi, if you have a philosophical response to the philosophical question, how about one minute and then we'll move on to our last.

---

FARZANEH BADIEI

Absolutely, we have had extensive conversation about this on the mailing list and I will forward you the link to that.

PAUL MCGRADY

Okay, all right, last topic. We're moving on to the last topic. Rec 5, a registrar must not be required to collect or generate new data solely for the purpose of ADC and or demonstrating compliance unless necessary and proportionate to establish sufficient and reliable evidence. The NPOC and registrars suggest remove unless necessary and proportionate to establish sufficient and reliable evidence because this may be opening the door to new data collection or generation for ADC.

So I'm going to open a queue on this. Any objection to this change, Michaela? Oh, I'm sorry, Michaela. I'm sorry, this needs a champion. Tell us the problem you're trying to solve and we can keep all the interventions brief because I would love to get all the way through this if we can.

MICHAELA SHAPIRO

Very brief. We were concurring with the registrars, so I'm happy to let them champion it, but NCSG also supports this. I just wanted to say that since we're not listed there, NCSG and NPOC are both supportive.

PAUL MCGRADY

Gotcha, that's terrific. Okay, Reg, can you be the champion?

REG LEVY

I shall. Yeah, so this is contradictory. We must not be required unless. So if we're not required, then we're not required. And the second half of that sentence is contradictory to the first half. And if we are required, then it's not a must not.

PAUL MCGRADY

Thanks, Reg. We have Martina and then Anil. Martina.

MARTINA BARBERO

Thank you very much, Reg and Michaela. I'm trying to understand a bit the issue here in the sense that we are saying that we don't want to be too prescriptive on what registrars want to do. And I know that there are some registered that might want to maybe Google the domain name themselves or do some extra checks that are not required as it's written in the first part of the sentence, but that they may confirm an assumption that they have or might help them to make a judgment faster.

So I feel like deleting the second part, it's actually basically telling them, oh, you shouldn't even think about doing an extra step. And that I think is more restrictive towards registrars and especially the good faith one who might want to kind of do the extra mile. So I feel we're a bit contradicting ourselves because we're trying in other recommendations to stay open to registrars willing to be a bit more compliant. Well, not more compliant, to go a step further. And in certain recommendation, we're telling them don't even

---

think about going a step further. So just want to make sure that we're consistent with that.

PAUL MCGRADY

Thanks, Martina. There's no prohibition here about going that extra step further. And we can make that clear in implementation guidance. If a registrar wants to collect or generate new data, they're free to do it. This is about what they are required to do. Let me also throw out a different way of thinking about this one, which is the removal of an obligation to collect or generate new data doesn't remove the obligation to comply. And so if ICANN compliance rings up and says, tell me all about your ADC compliance. And the registrar says, oh yeah, we totally comply. And ICANN compliance says, prove it. The registrar is going to be in a weird position if they have nothing to prove, right?

I mean, in the ordinary course, we've already addressed sort of like the ordinary course of the records, right? If you do an ADC, you will have records that just happened because computer systems collect records. This is not about that. This is about having to build something new unless I'm misunderstanding it, right? And we've consistently said from the beginning that registrars wouldn't have to build anything new. So Martina, maybe I'll come back to you. We have a couple of minutes left. We're going to ponder that for a bit. Anil, please go ahead.

---

ANIL KUMAR JAIN

Thank you, Paul. Interesting discussion. Basically, in the Recommendation Number 5, the underline is written that with the initial investigation and we found that this investigation is going on well, but we need some additional sources of data. I think it is possible to do it. So I personally feel that Recommendation 5 Note is perfect and no need for any modification. Thank you.

PAUL MCGRADY

Thanks, Anil. Volker?

VOLKER GREIMANN

So after noodling this a bit, I find that yes, the removal can happen, but I would suggest to take care of the concerns that we've heard by putting specific language in that allows us to do so, even if that is solely to do for the purpose of demonstrating compliance. I don't think that that is necessary, but if we can arrive on such language that a registrar must not be required but shall be permitted to. So no, no, no, no.

Even while showing compliance is not the main point here for that, it may be used for that. If we can go to the compliance and said, look, we're doing this and this, that isn't even required, but we're still doing that. That can be used to show compliance to ICANN compliance. So I would be happy with that addition. It doesn't do anything because we would be permitted to do so anyway, but if someone feels that that is clarified and that is a good trade for removal of the second part, then that is fine by me.

PAUL MCGRADY

Thanks, Volker. Chris?

CHRIS DISSPAIN

Thanks, Paul. I just want to make a comment on the current wording. The current wording means something different, I think, to that which people think it means. It says a registrar must not be required unless necessary, which means that if it's necessary, they are required. I don't think that's the intention. I think the intention is that, it's not that they are required, it's that they can. There is a significant difference between you are required to and you can.

So I think if we're going to leave it like that, we need to change it anyway because I don't think it does what it's intended to do. And if we're going to change it, that's fine. We can just take it down. It doesn't matter anymore.

PAUL MCGRADY

Thanks, Chris. We're at the speed round now, guys. Everybody, aim for 30 seconds. Gabriel?

GABRIEL ANDREWS

Hi. So I agree that a change might be warranted. I just am concerned with the edit as suggested because if you were to strike that underlined part and ignore just part of the sentence where the or is, like you could read it, a registrar must not be required to collect new data solely for the purpose of demonstrating

---

compliance, which I think would handcuff compliance's ability to ask for data. And I worry about that formulation as written. And so I think that the whole thing, per Chris's comment, might be wordsmithed a little bit more to avoid such risks.

PAUL MCGRADY

All right, we have Rod.

ROD RASMUSSEN

Thanks, I think a simple solution for this would be actually just move this last clause that they've struck to the next sentence, which isn't actually in our review document, but is in the actual original proposed recommendation, the sentence that starts with, furthermore, nothing in this policy should be understood to prohibit a registrar from using data, blah, blah, blah, blah, blah, and just move that clause slightly edited into that second sentence. Thank you.

PAUL MCGRADY

Okay. And then Reg.

REG LEVY

Yeah, to Martina's point about possibly Googling something so that we can verify the report, what we want to end up with is that I don't have to track that I Googled it. If it happens to be in my browser history, great. I don't have to create a new log that says, and then I Googled something.

PAUL MCGRADY

Thanks, Reg. We're going to go back to Martina. She didn't raise her hand, but you know.

MARTINA BARBERO

I think it's totally understood, and I don't think the GAC spirit is to ask you to record or your Google searches, which would be like completely nuts. What I'm saying is that we just want to make sure that we don't tie our hands to the point where if you do an additional step, that would be against policy or considered as not compliant or whatever. So I think Volker spirit was kind of opening the door. I think you can maybe think about language that you could live with, and that opens a bit the door, and I think we would be fine with that.

PAUL MCGRADY

Thank you, Martina. That's great. I think leadership team with staff's help has enough on this one to iterate this and propose something new. Today's sticky wicket was reasonably accessible, and so I encourage the IPC to get together with the registrars because that seems to be where the primary disagreement is and see if maybe the two groups can work together to bring something to the table on that. I do think it's eminently solvable, and we are among the world's smartest people, so let's get it done.

And I wish you all a safe trip home. Next steps are staff will work with leadership team to update these preliminary

recommendations. We'll share those out. You guys review and provide comments, or y'all, as we say in Nashville. And our next working group meeting is the 22nd of June, which means you get an entire week off not having to hear my voice, which I'm sure everybody will be happy about.

So let's get rested. Let's solve that last problem, and let's progress. I think we are extremely close to starting to draft our preliminary report, and I would love to do that as soon as possible so that we stay on track. Thank you, all. Appreciate it.

**[END OF TRANSCRIPTION]**