**RECOMMENDATION 4 (+Additional Data Elements Suggested)**

The EPDP Team recommends that the data elements defined in the data elements workbooks in Annex D are required to be collected by registrars. In the aggregate, this means that the following data elements are to be collected (or automatically

generated) <See Initial Report>.

***Disclaimer:*** *This overview has been developed to facilitate the EPDP Team’s consideration of the concerns expressed and possible updates to the recommendations. However, this does not replace the EPDP Team’s obligation to review all input received in full and to indicate if any concerns in this overview have inadvertently been mischaracterized.*

**Noted Concerns**

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| **Concern** | **Corresponding PCRT Comment #** | **Further Discussion Required?** |
| Strongly supports the proposition that all data elements should continue to be collected/generated and that they should continue to be made freely available to the greatest extent possible while remaining GDPR compliant. In addition to supporting the various Purposes identified in the Initial Report, collection and access to these data elements support various other important public interests, including (a) consumer protection against counterfeits, fraud, phishing schemes etc., (b) the ability of law enforcement to efficiently respond to online criminal activity, and (c) efforts by brand owners to protect their brands online. | 2, INTA | Yes/No |
| These data elements are required by ICANN to fulfill its Mission and are in line with ICANN’s pursuit of a legitimate interest in this data as well as the performance of the domain name registration contract to which the data subject is party.  [These data elements, which are all of use in cybersecurity investigations, are required by ICANN to fulfill its Mission and are in line with ICANN’s pursuit of a legitimate interest in this data.] | 3, 4  MarkMonitor, BC, Microsoft | Yes/No |
| These are needed to help document ownership of a domain name to the public, and to also allow the public to communicate with a registrant. | 5, George Kirikos | Yes/No |
| Organization, Fax, Fax ext, Tech ID, Tech Fields: Name, Phone, Email: These fields are unnecessary, redundant, antiquated, obsolete, and/or violate GDPR data minimization principles. | 6, John Poole | Yes/No |
| Opposes the inclusion of “Additional optional data elements as identified by Registry Operator in its registration policy.”  [We oppose the inclusion of “Additional optional data elements as identified by Registry Operator in its registration policy. ”As noted in our response to Purpose #7, we do not want the Whois data to be expanded to include a potentially unlimited number of new data elements reflecting individual policies of different registry operators] | 7, 8, 16  (Domain Name Rights Coalition, Internet Governance Project, NCSG) | Yes/No |
| Street [address] must be deleted. - as completely unnecessary for any ICANN or DNS technical and operational needs of a domain  name and given the danger to life and liberty to many organizations and individuals from street address -- the exact location where to find targeted minorities exposed to danger in virtually every country -- the protections of GDPR under Article 6 are so high as to provide virtually no “lawful processing” not “overridden by the interests or fundamental rights and freedoms of the data subject...” | 7, Domain Name Rights Coalition | Yes/No |
| Collection of the following data elements is not necessary to achieve the Purposes identified above: Registrant Street; Registrant City; Registrant State/Province; Registrant Postal Code; Registrant phone / phone ext; Registrant fax / fax ext; Tech Name; Tech Phone; Tech Email  We do not agree that the registrant or technical contact data indicated here is necessary for registrars to collect under GDPR lawful basis 6 (1) (b); a domain name can be allocated to a registrant with only a subset of the current registrant data set (see response to #42 above). | 9, Tucows | Yes/No |
| Tech-c contact should be removed. It is not necessary and under GDPR data minimisation is key.  [There is no legitimate purpose for a registrar to collect a technical contact in order to register a domain name. Additionally, optional data is not “necessary” data for GDPR purposes] | 10, 14  Blacknight, Domain.com | Yes/No |
| Disagree due to optional fields (ie tech contact) | 11, GoDaddy | Yes/No |
| Eliminate from 'Registrant Fields': Phone ext, Fax & Fax ext.Also eliminate: Tech ID, all Tech Fields (Name, Phone, Email)  Welcomes the omission of the Admin-C and Billing-C, the retention of Tech-C (albeit as an optional field) is inconsistent with decisions of the German Courts in ICANN v EPAG.  [In a majority of cases, the tech fields replicate the data used in the owner field. Therefore, publication of the very same data in this field would render the redaction in other fields moot.] | 12, 13  (RrSG, Key-systems | Yes/No |
| The EPDP Team did not engage in a thorough discussion about the individual data elements that are required to be collected by the registrar to fulfill the identified Purposes. Defers comment on this recommendation, pending EPDP WG discussion and analysis of all individual data elements identified in Preliminary Recommendation 4.  Does not believe the consensus policy should require additional elements to be collected/generated. The scope of this EPDP is not to contemplate adding additional data elements, but rather to consider the Temporary Specification and either approve the requirements contained therein, or make necessary modifications to bring the RDDS requirements into compliance with GDPR. | 15, 18 RySG | Yes/No |
| Registrars should be required to provide an option for registered name holders to indicate that they are either a Legal or Natural Person.  Registrar should also generate a data element of the date on which registrant contact data was last verified/validated in accordance with the RAA, and the method used to do so. | 19, 20  (MarkMonitor, IPC, Coalition for Online Accountability) | Yes/No |
| What is shown as "Optional" Data elements need to be "Required" data elements in the case of domain names registered for existing or intended commercial web spaces, perhaps with stipulations for collecting additional data elements.  A domain name may be classified as a “Commercial” Name voluntarily by the Registrant during Registration; This determination could also be made post-registration by automated crawling for features of commercial activity, to be agreed as such by ICANN Community, (for instance the presence of a payment interface or pricing or subscription information). ICANN may have to consider ways of making a distinction between individual and commercial domain names based on the web spaces the domain names point to; Such a distinction goes beyond making a distinction between natural and artificial persons to include within the class natural persons using domain names commercial use; For this class of domain registrations, the emphasis needs to be on transparency rather than privacy, on more data elements rather than minimal data elements. | 21, Internet Society India Chennai | Yes/No |
| The 2013 RAA's WHOIS Accuracy Program Specification requires that registrars collect "Account Holder" identity. "Account Holder" is a legally defined term in the RAA, and this party may be different from the "Registered Domain Holder" or Registrant. The report must make clear that the "Account Holder" MUST be collected by the registrar and the data and data field MUST NOT be provisioned to the registry or displayed in RDDS  The RAA's Data Retention Specification section 1.2 requires that registrars collect a number of additional fields not in these tables. While these fields and data should not be displayed in RDDS, and should not be provisioned to a registry, any Recommendations and a revised Temp Spec should make clear that registrars are still required to collect those fields, and they may be requested by ICANN for compliance purposes. | 22, iThreat Cyber Group | Yes/No |
| Registrars must offer the RDH the opportunity to provide a full Technical Contact, containing the same data fields that are provided for Registrant contacts. The Technical Contact should be optional for the RDH to provide. If a Technical Contact is provided to the registrar, the data must be provisioned to the registry, and the following fields must be published in public RDDs output: Name, Phone, Email, City, Country.  Recommendation 4’s Data Elements Fields proposal inadvertently requires significant changes to the EPP specifications and client-server implementations. This would create unnecessary confusion for current domain contacts and would create unnecessary additional implementation delays. It will create a series of operational issues since registries would still be required to provide support for a technical contact.  The “Tech fields” proposal also creates transfer problems. Some registrars have stated that they want to offer Tech contacts to their registrants. What will happen when a registrant using such a registrar wants to transfer his or her domain to a registrar that does not support Tech contacts? Introducing this kind of discontinuity and lack of standardization into the domain registration and management process is neither necessary nor desirable | 23, SSAC | Yes/No |
| Registrars should be required to provide an option for registered name holders to indicate that they are either a Legal or Natural person. GDPR does not apply to Legal Persons and, therefore, allowing registered name holders to indicate they are such Persons creates the opportunity and possibly the legal basis needed to publish the full Whois record or at least more fields therein. | 24  (Disney, BC, Microsoft | Yes/No |
| 1. There needs to be an additional field to provide clarity regarding whether the registrant is the "Name" or whether it is the "Organization", as the current data collected makes it ambiguous! This has been a known problem for a long, long time. For example, if the "Name" is "John Smith" and the "Organization" is "Acme Inc.", then is the true registrant the corporation, and John Smith is the employee at the corporation who receives the correspondence? Or, is the true registrant "John Smith" (an individual), who currently happens to work for "Acme, Inc."?? That ambiguity can cause immense legal problems, tax issues, disputes over ownership, etc. It's time to fix that, now.  2. Tech Field: should include all the fields (optionally for the registrant, but mandatory for the registrar to offer to collect them) as the registrant field, i.e. address, postal code, phone, fax, etc. Simply a name, phone number and email are insufficient.  3. Admin Fields: these should be restored, as per the current WHOIS! (i.e. all fields like the registrant). The admin within an organization is separate from the registrant. Make it optional if need be.  3. "Name Server" should be plural, i.e. all name servers (not just 1).  4. There should be an optional "Legal Contact" (with all the same field types as the registrant, i.e. address, phone, fax, etc.), akin to a "Registered Agent for Service" in many jurisdictions for corporations. | 25, George Kirikos | Yes/No |
| The elements that have been deleted related to Admin contacts should be reinstated pending a clear understanding on how the existing data in these fields (when it is unique to those fields) will be handled by registrars and registries. Registrant-provided data must not be unilaterally removed without due consultation with the data provider. Moreover, under the 2009 RAA, which governs a very large number of registrations, there was no requirement to collect Registrant telephone or email. If the Admin field is eliminated, there may be NO contact information in the record (and in the escrowed records). There must be a new field where the registrant must declare whether it is a natural or legal person. This field must be collected regardless of whether it is used at this stage to determine what data is redacted. | 27, ALAC | Yes/No |
| If the domain name is registered via a registrar's reseller, the Whois records should also display the reseller's name and contact details. | 28, Steve Gobin | Yes/No |