**RECOMMENDATION 7**

1. The EPDP Team recommends that updates are made to the contractual requirements for registries and registrars to transfer to ICANN Compliance the domain name registration data that they process when required/requested, consistent with the data elements workbook that analyzes the purpose to handle contractual compliance monitoring requests, audits, and complaints submitted by Registry Operators, Registrars, Registered Name Holders, and other Internet users (see Annex D).
2. The data elements workbook that analyzes the purpose to handle contractual compliance monitoring requests, audits, and complaints submitted by Registry Operators, Registrars, Registered Name Holders, and other Internet users contains the specifically-identified data elements the EPDP Team recommends be transferred from registries and registrars to ICANN Compliance (see Annex D). These data elements are: <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?** |
| The support is conditional to a record of processing activities that shall be provided by ICANN org and be exhaustive | 2 (Association of the Internet Industry, ISPCP) | Yes/No |
| Supports compliance having all the data it needs to efficiently carry out its vital function to ensure that contractual obligations are being met, and issues are resolved as quickly as possible. This is particularly vital in the context of ICANN Compliance activities to support the combat of DNS abuse. | 3, INTA | Yes/No |
| ‘No’ only because the NCSG believes that requests by ICANN Compliance should be limited to those elements required to accommodate issues they will deal with at that time. In principle, this could mean that all data elements are required, but not all elements will be needed for other purposes. We wish to underline the principle that compliance requests should not be open-ended fishing expeditions. We note that ICANN Compliance rules should be more subject to review and understanding by the community, and that there are concerns (and reports) that complaints are being used, in part, as harassment and fishing expeditions against registrants. Accordingly, transfer of data elements even to ICANN Compliance should be subject to special evaluation and review -- not automatically done regardless of purposes, scope and scale. | 4, 5  NCSG, Internet Governance Project | Yes/No |
| Personal contact details should not be passed to ICANN | 6, David Martel | Yes/No |
| Suggested wording modification for clarity | 8, Internet Society India Chennai | Yes/No |
| Ensure that as new fields are added (as Rec #4 fields are changed, due to public input), that these additional (sometimes option) fields are added into Rec #7. | 9, George Kirikos | Yes/No |
| Not all purposes proposed in Annex D are purposes for processing data and request for disclosure should be specific and proportionate to the issue being addressed.  Support the purpose, namely the ability of ICANN to enforce compliance of its agreements (RAA, RA) with Contracted Parties, where applicable. However, this purpose is contingent on the resolution of ICANN’s status as a data controller or joint controller. Programs that monitor or audit registration data must also be clearly defined before they can be included as a component of this purpose. | 10, GoDaddy | Yes/No |
| Transfer 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  In addition, the remaining data elements (Registrant Name, Registrant Organization, Registrant Email, Registrant Country) should only be transferred to ICANN after ICANN has demonstrated a specific legitimate purpose to access those particular data elements.  If ICANN provides a Data Processing Agreement or some appropriate assurances re how they handle, store, process, and delete data, and the data are truly a minimal set, ICANN might be able to request certain minimal data elements which are needed for the purposes listed (see pg 115 of current clean copy). At this time, however we have no assurance that ICANN will require a truly minimal set; hopefully this will be determined within the UAM work | 11, 27 Tucows | Yes/No |
| The EPDP Team did not specifically discuss and analyze each of the individual data elements identified in Preliminary Recommendation 7. It must do so and revise the recommendation as appropriate. The RySG is willing and available to contribute to this analysis as the EPDP Team needs.  In conducting this analysis, the EPDP Team should bear in mind that no additional data elements should be required to be collected by the registrar or transferred from the registrar to the registry solely to achieve this purpose. Rather, the data elements required to be transferred to the data escrow agents should be derived ONLY from the set of data elements required to be collected by the registrar and transferred from the registrar to the registry in fulfillment of Purposes 1, 3, 6 or 7.  Further, in the Final Report, the recommendation should not reference the workbook but should be worded as a standalone recommendation that describes what data elements Contracted Parties are required to transfer to the data escrow providers. | 12, RySG | Yes/No |
| The BC agrees that all the data elements listed in Workbook 5 should be transferred from the registrar/registry to ICANN. We further recommend that all registrant data collected by registrar/registry be transferred to ICANN. If a registrar/registry collects registrant data, it should be transferred to ICANN to properly enable Compliance and other critical functions.  [In addition, ICANN should receive all information that it deems reasonably necessary for compliance, not just the “minimum”, to ensure that ICANN can satisfy this important function.]  [We notice that the registration data set frequently contains many inaccuracies. Although even the inaccurate data is of use in cybersecurity investigations, it is less useful for dispute resolution, and if the accuracy of the data can be improved by the ICANN compliance processes and policies, we support them.]  [We also note that our members have submitted several contractual compliance complaints to ICANN about registrars’ failure to provide registrant information to them in accordance with the requirements of the temporary specification. Those complaints have been pending for over 5 months with no response from ICANN. This inability of ICANN to investigate and respond to contractual compliance complaints is very troubling and points to a potential breakdown in the ICANN model.] | 14, 15, 28, 29  BC, Microsoft, MarkMonitor, Coalition for Online Accountability, IPC | Yes/No |
| Only those data elements needed on a case-by-case to a valid and non-frivolous and non-harassing complaint should be transferred from the registrar/y to ICANN Compliance. Requests by ICANN compliance must be limited to those elements required to accommodate satisfy issues at that time. In principle, this could mean that all data elements may be needed for one complaint, but not for another. We wish to underline the principle that compliance requests must not be open-ended fishing expeditions | 17, 18, iThreat Cyber Group, Domain Name Rights Coalition | Yes/No |
| None of the data elements should be transferred from the registrar to ICANN. The registrar could just give ICANN access to the data when lawful and appropriate. Of all the parties mentioned (registrars, registries, ICANN), I trust my registrar the most to responsibly keep and process my registrant data, the monopoly registry operator less so, and least of all ICANN. | 21, John Poole | Yes/No |
| Any request for data from ICANN to a registrar should be narrow and specific. Each request should include a clear rationale for the requested data as well as clearly demarcated details on how ICANN handles that data. At present ICANN does not have DPAs with registrars and is also claiming that it somehow is exempt from meeting the thresholds that companies we deal with for far less sensitive data have to meet.  [While ICANN compliance may require to check with registries or registrar in respect of a compliance issue for a domain name, there is no clarity on why ICANN require the personal data of a Registered  Name Holder.] | 22, Blacknight | Yes/No |
| It is unclear if the wording needs to be changed, but the ultimate result must be that Compliance has immediate access to registration data without having to make an explicit request and wait for reply. Having to formally request data and then restart the investigation when it arrives needlessly increases the complexity of the costs of Contractual Compliance. | 26, ALAC | Yes/No |
| The RAA currently requires that several other types of data be collected, data that has never been displayed in RDDS. For clarity, the report should state that these RAA provisions are not affected and should remain in place. Most important is the identity of the “Account Holder”, which the RAA defines as “the person or entity that is paying for the Registered Name or otherwise controls the management of the registered name, when that person or entity is not the Registered Name Holder. | 30, SSAC | Yes/NO |