**RECOMMENDATION 8**

The EPDP Team recommends that redaction must be applied as follows to the data elements that are collected. Data elements neither redacted nor anonymized must appear in a freely accessible directory.

***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?** |
| Organization should be redacted. Many people operate small organizations, home-based businesses. Mom-owned business, and hobby, research and educational groups from their homes, and the contact data in their domain registration is indistinguishable from that of an individual residence (because it is an individual resident!). Also, some organizations that are not doing anything illegal might be targeted merely because of their legal political, religious, or social affiliations (and these groups, as noted below, and those who work for them), are specially protected by the GDPR as noted in other parts of this comment.  [Legal advice provided to the GNSO Next-Generation RDS to replace WHOIS PDP Working Group explained that any data element that assists in making a natural person (RNH) identifiable, in conjunction with other data elements, should be treated as personal information, even if the data element does not appear to be personal information in itself. Combining the “Organization” field with others such as state or city would certainly make a Registered Name Holder more identifiable.] | 2, 9, 11  Domain Name Rights Coalition, NCSG, Internet Governance Project | Yes/No |
| Support the recommendation that the fields designated in Recommendation 8 should be redacted in the registration data directories that Contracted Parties are required to operate. However, the requirement to publish the remaining data elements in a “freely accessible directory” raises concerns for the RySG given the open-ended and imprecise nature of the language. Further, the RySG recommends refining Recommendation 8 to include a provision that, in the event a Contracted Party collects additional data elements not included in the list enumerated in the recommendation, the Contracted Party should be permitted to redact those data elements, at its discretion.  RE: Organization: The RySG notes that there are a great many instances where the Organization field of a domain registration record contains personal data of natural persons, such as the name of registrant. There is no way for Contracted Parties to understand the Registered Name Holder’s intention or motivation behind inputting this type of data in such cases. At this point in time, Contracted Parties cannot rely on domain registrants to only provide the names of legal organizations, rather than personal data, in the Organization field. The RySG understands that the EPDP is seeking additional legal guidance on this topic, and once that guidance is received, we may be willing to revisit this position.  [In a sampling of the Organization field for registrations sponsored by our family of registrars, we found that the Organization field is most likely to match the registrant name or be completed with placeholder data (such as “NONE” or “—”). We did not find substantial indication that it was useful to determine the status of the registrant as either a natural or legal person. As such, using its to existence attempt to determine the status of the registrant is inappropriate and displaying the data it may contain risks revealing personal data. It should be redacted by default.]  [In a perfect environment registrant org would not be redacted. However, because there is 20+ years of legacy WHOIS data in circulation that was obtained (often in violation of WHOIS terms of use), resold, and archived, the registrant org field is being used as an “index” to match redacted records to unredacted archives. Because of this ability to indirectly identify subjects, many of whom may be nature persons, we believe the existence of these archives means we must treat registrant org as personal data.]  [This issue is closely linked to the distinction of natural and legal persons. If and when a compliant way to make a distinction between natural and legal persons can be found, the organization field can be published where no personal data is revealed. However, such mechanism does not exist (yet).] | 3, 5, 6, 7, 8  RySG, Tucows, GoDaddy, Blacknight, RrSG, Key-Systems | Yes/No |
| The "Organization" field should not only be redacted but DELETED as I have already addressed previously above. The "Organization" field should be deleted as redundant, unnecessary, confusing, and duplicative. | 4, John Poole | Yes/No |
| These these data must be redacted but, in addition, MORE data elements should be redacted beyond what are listed here: Organization, State, and Country should also be redacted; there are NO data elements that need to be publicly displayed. | 5, Tucows | Yes/No |
| GDPR clearly states that it is not applicable to Legal persons. So clearly, Organization field signifying a legal entity should not be redacted. However, it should be clearly mentioned/ advised to Registrant by Registrar at the time of Registration to avoid putting name of an individual (natural person) in Organization field | 12, GOVERNMENT OF INDIA | Yes/No |
| RE: Organization: There are a number of reasons it should not be redacted. For web sites (and other Internet resources) that are nominally commercial, Internet users should have SOME ability to know who is behind it (or if it is being hidden by Privacy/Proxy). Without the Organization field, there is NOTHING. - It is possible that the EPDP recommendations may allow all registrants to be treated as EU Natural Persons with significant redaction.- The Temp Spec has required the Organization filed to be displayed and there has not been any evident major issue about it.- It is an OPTIONAL field to fill in and Registrants can be warned that it will be displayed if filled in. So there is no reason to NOT display it | 15, ALAC | Yes/No |
| It is essential to protect the privacy of the customer RE: Organization: It is not personal data | 16, David Martel | Yes/No |
| Registrant Email and City should not be redacted Because time often is of the essence during security and law enforcement investigations, there must be an immediate method for contacting domain registrants that is more precise and affirmative than a web form or anonymous link.  In addition, the EPDP Charter (Part 1(f)) relates to publication of data. Registrars should give registrants the option to opt in to having their WHOIS Contact Data published rather than be redacted.  Legal entity registrants such as corporations should not have any WHOIS data redacted. Natural person registrants may wish to display their information to ensure that their customers can confirm the authenticity of their website and prevent phishing and other impersonations. Domain owners may wish to be easily contactable in order to solicit interest in secondary market sales of their domain names. Enabling the consent feature is consistent with the accountability principles laid out in GDPR.  An Organization by definition refers to a Legal Person, and Legal Persons are exempt under GDPR and most other national privacy laws. No registrant data collected for a Legal Person should be redacted.  [Email has been recognized as most important data element for law enforcement as well as DNS abuse, consumer protection, and IP rights violation investigations. In the balance of privacy and other rights and interests, it is appropriate that this data element remain unredacted and publicly accessible. The disclosure of a registrant's email address in a public WHOIS system is essential for the legitimate purpose of expeditiously contacting the registrant in case of possible infringements or illegal actions. GDPR is only to be applied as written to natural persons, not legal persons. To redact an organization name is not at all required or supported through application for the GDPR. This is extremely valuable information to identify or contact the legal owner of the domain or to track abusive behavior by or against persons and entities, including against the RNH. When, in rare instances, and organization name includes personal data, such as a natural person’s name, the person, in securing a license to do business under that name has provided clear consent in the use of that organization as a non-personal identifier.]  [We note that the GAC in its consensus advice issued in its ICANN61 San Juan Communique urged ICANN "to reconsider the proposal to hide the registrant email address as this may not be proportionate in view of the significant negative impact on law enforcement, cybersecurity and rights protection."The city of the registrant is required for serving legal process. If the street address of the registrant is redacted, then the city of the registrant should not be considered personal data warranting redaction.] | 18, 20, 21  BC, MarkMonitor, IPC, Coalition for Online Accountability | Yes/No |
| Email fields should not be redacted. Organization Field should not be redacted. City should not be redacted. Privacy/Proxy data should not be redacted. The registration of a legal person registrant should not be redacted.  Please note that our responses assume that processing shall be lawfully disclosed to the registrant at the time of data collection. Email addresses are important for both identifying and contacting registrants in the normal course of business, and not only during investigations.  Organization names provide additional means for identifying and contacting registrants when the other fields are unreliable and is also indicative that the registrant is a legal person. Since organizations are not covered by GDPR, Organization fields should not be redacted anyway.  The City field is used in resolution cases where determination of jurisdiction is needed to identify proper venue for litigation and understand which controlling law and procedure applies. Several states contain multiple districts with differing law and procedure. Proxy data is the data of a legal person (the proxy provider) and should never be redacted. Data which is redacted requires requests for disclosure. This impedes the normal course of business and adds delay to investigations where time may be of the essence. | 19, Microsoft | Yes/No |
| ALL elements should not be redacted. Under the proposed recommendation, registrants would be unable to easily demonstrate via the WHOIS that they are the owners of their own assets! This would greatly degrade the value of domain name assets, and expose domain names to issues like identity theft (where others can pretend, with impunity, that they are the owners of a domain name, when in fact they are not).If you're going to permit redaction, please ensure that registrants can OPT OUT of redaction, and OPT-IN to full publication of their own WHOIS data. The purported reason for the GDPR is to give owners of data control over it, but the current recommendation doesn't allow me, as a registrant, to make it public! (it appears, reading the text as is, that the registrar has no choice and must redact!). Here's another possible solution (that others might not have considered), namely allow registrants to run their own WHOIS service for their own domain names. | 23, George Kirikos | Yes/No |
| All registrant fields MAY be displayed. Registrant City. Technical Contact Name, Technical Contact Phone, Technical Contact Email  The current Temp Spec says that Registry Operator and Registrar MUST redact ONLY WHERE the data subject or processing activity is covered under GDPR. It would be preferable if contact fields such as name and address are redacted ONLY IF protected by GDPR or another applicable privacy law. The entire point of collecting a Tech Contact is to DISPLAY it, so that it can be seen by the public. So there needs to be better discussion of why the Tech fields would be redacted from publication.  It is strained to claim that Registrant City is personally identifiable. | 24, iThreat Cyber Group | Yes/No |
| Tech Fields collected (as optionally provided by data subject) should be the same fields as those fields collected for Registrant contact. If the tech contact data is collected from the Registrant, to the extent allowable by law, said data should not be redacted  Efforts should be made to provide educational material such that the data provided in the Org field can be relied on to not contain personal data, or else that the data is provided with proper informed consent by the data subject. With these conditions in place, the publication of the Org field can be useful. | 25, SSAC | Yes/No |
| In the case of Registrants registering domain names for commercial web spaces, none of the data elements to be redacted; more data elements may be necessary | 26, Internet Society India Chennai | Yes/No |