## PURPOSE 1

| # | Comment | Contributor | EPDP Response / Action Taken |
|---|---------|-------------|------------------------------|
| As subject to Registry and Registrar terms, conditions and policies, and ICANN Consensus Policies: <br><br> • To establish the rights of a Registered Name Holder in a Registered Name; <br><br> • To ensure that a Registered Name Holder may exercise its rights in the use and disposition of the Registered Name; and <br><br> • To activate a registered name and allocate it to a Registered Name Holder | | | |



Pie chart legend:

- Support Purpose as written
- Support Purpose intent with wording change
- Significant change required: changing intent and wording
- Purpose should be deleted
- Not designated

Chart values: 19, 45%; 10, 24%; 2, 5%; 0, 0%; 11, 26%

| # | Comment | Contributor | EPDP Response / Action Taken |
|---|---------|-------------|------------------------------|
| **Support Purpose as written** | | | |
| **1.** | No comments provided in support of this recommendation | • Evin Erdoğdu; ALAC<br>• David Martel<br>• Etienne Laurin<br>• Michele Neylon; Blacknight Internet Solutions Ltd<br>• DR. JAIDEEP KUMAR MISHRA ; DIRECTOR MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY, GOVERNMENT OF INDIA<br>• Volker Greimann; Key-Systems GmbH<br>• Tucows Domains Inc.<br>• Lars Steffen; eco – Association of the Internet Industry<br>• Domain.com, LLC & affiliates<br>• Ben Butler; SSAC<br>• Wolf-Ulrich Knoben; ISPCP Constituency<br>• Sajda Ouachtouki; The Walt Disney Company<br>• Farzaneh Badii; Internet Governance Project<br>• Steve DelBianco; BC<br>• Tim Chen; DomainTools<br>• A. Mark Massey; Domain Name Rights Coalition | <mark>Support</mark><br>**EPDP Response:** The EPDP appreciates the support<br><br>**Action Taken:** none  [**COMPLETED**] |

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| 2. | We maintain our stated concerns with the use of the term "rights', in the context of a commercial service contract. Any modification or deletion of the qualifying introduction ("As subject to...") will negate our support for this purpose. Stated another way, our support for this language is contingent on the inclusion ("As subject to..."). | Sara Bockey; GoDaddy | Support<br>**EPDP Response:**<br><br>**Action Taken:**<br><br>[**COMPLETED / NOT COMPLETED**] – [Instruction of what was done.] |
| 3. | We support the concerns that were expressed by our RrSG Rep with regard to the use of the term "rights," in the context of a commercial service contract. Any modification or deletion of the qualifying introduction ("As subject to...") will negate support for this purpose. | Zoe Bonython; RrSG | Support<br>**EPDP Response:**<br><br>**Action Taken:**<br><br>[**COMPLETED / NOT COMPLETED**] – [Instruction of what was done.] |
| 4. | An official record of the Registered Name Holder's (RNH) data is needed to assign exclusive control of it to the RNH and to enable the domain name registrant to assert its rights over a domain name. | Ayden Férdeline; NCSG | Support<br>**EPDP Response:**<br><br>**Action Taken:**<br><br>[**COMPLETED / NOT COMPLETED**] – [Instruction of what was done.] |
| **Support Purpose intent with wording change** | | | |
| 5. | No edit suggested.<br><br>If reviewed closely, one can see that the workbook for purpose 1 does not actually note the transfer of data from the Registrar to the Registry. This could be an oversight, or a difficult level of specificity to achieve in terms of gaining consensus on a policy. That said, the i2C believes it bears exploration. We also note that language referencing a contact for "administrative issues" is defined too narrowly for some of the envisaged applications (AUP/T&C). | Monica Sanders; i2Coalition | Concerns<br>**EPDP Response:**<br><br>**Action Taken:**<br><br>[**COMPLETED / NOT COMPLETED**] – [Instruction of what was done.] |

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| 6. | Change (II) to "To ensure that a registered name holder may exercise its rights in the use, disposition, transfer and recovery of the registered name; and"<br><br>While the original language is a good starting point, "disposition" is somewhat ambiguous. I believe it's important to explicitly add "transfer and recovery" within the text. Facilitating and recording domain name ownership transfers (assigning the rights to a subsequent registrant) are important purposes of the processing of registration data, and should be explicitly documented in the language. Furthermore, recovery of domain names (e.g. when domain names are stolen, or fraudulently transferred) is of critical importance to registrants, and a further purpose for the processing of the registration data. Establishing the provenance of a domain name via the historical WHOIS records is of critical importance to the current registrant (otherwise the domain name's ownership would always be in dispute, thereby devaluing it not only for the current registrant, but future registrants). In other words, trust is established when one can document the ownership history, and that's a legitimate purpose of processing the data. This is somewhat hinted at in (I), i.e. "to establish the rights of a registered name holder", but again that language is somewhat ambiguous, because some folks might interpret the current language in the narrowest possible manner (i.e. contemporaneously only, for the current registrant), without contemplating past/future registrant changes via domain transfers to new registrants. I believe it's important to be explicit, so that there is clarity for everyone on these issues.<br><br>As an alternative, those two additional terms (transfer and recovery) could be added as a 4th bullet point, instead of changing the 2nd bullet point (i.e. the 3rd bullet point is related to domain creation, and so a 4th bullet point could be laser-focused on transfer and recovery of a domain name).<br><br>[While the above might be hinted at in purpose #2 (i.e. "maintaining the security, stability, and resiliency"), I don't think it's sufficiently explicit. It needs to be explicit, in order to avoid future disputes about the "meaning" of the language.]<br><br>To be clear, domain recovery doesn't only take place via the TDRP, but can also be done via the courts (thus the proposed limitations on retention of data in the report to only the time limits of the TDRP are unrealistically short). | George Kirikos; Leap of Faith Financial Services Inc. | Concerns<br>**EPDP Response:**<br><br>**Action Taken:**<br><br>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.] |

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| 7. | RE: "(III) TO ACTIVATE A REGISTERED NAME AND ALLOCATE IT TO THE REGISTERED NAME HOLDER"... what does "activated" mean -- resolve?  It is an undefined term not used in the industry.  Registered domain names do not ever need to resolve or be "activated" -- they need to be "registered to a name holder".  Also, Purpose 1 assumes that "To ensure that a Registered Name Holder may exercise its rights in the use and disposition of the Registered Name" is synonymous with the registrants right to manage their domain.  However, the report does not explain why this equivalence is true or guaranteed.<br><br>No rationale provided | Greg Aaron; iThreat Cyber Group | Concerns<br>**EPDP Response:**<br><br>**Action Taken:**<br><br>[**COMPLETED / NOT COMPLETED**] – [Instruction of what was done.] |
| 8. | No edit suggested.<br><br>INTA supports Purpose intent with a modification. The Purpose should be more accurately defined to refer to both the rights "and obligations" of the registered name holder, which reflects the practical and legal context in which a name is registered. For example, a registered name holder provides their contact details not only to establish their claim to a specific domain but also to put third parties on notice of that claim. The name holder also agrees to certain obligations in connection with their registration, and the provision of registration data is integral to establishing the identity of the name holder so that the registrar, registry operators and (potentially) third parties are able to identify the party which has undertaken such obligations. This goes beyond Purpose 3 (described below) which deals with communication. | Lori Schulman Senior Director, Internet Policy; International Trademark Association (INTA) | Concerns<br>**EPDP Response:**<br><br>**Action Taken:**<br><br>[**COMPLETED / NOT COMPLETED**] – [Instruction of what was done.] |
| 9. | AS SUBJECT TO REGISTRY AND REGISTRAR TERMS, CONDITIONS AND POLICIES, AND ICANN CONSENSUS POLICIES:<br>(IV)        TO ESTABLISH THE RIGHTS AND OBLIGATIONS, SUCH AS THEY MAY BE, , such as they may be, OF A REGISTERED NAME HOLDER IN A REGISTERED NAME;<br>(V)        TO ENSURE THAT A REGISTERED NAME HOLDER MAY EXERCISE ITS RIGHTS AND FULFILL ITS OBLIGATIONS IN THE USE AND DISPOSITION OF THE REGISTERED NAME; AND<br>(VI)        TO ACTIVATE A REGISTERED NAME AND ALLOCATE IT TO THE REGISTERED NAME HOLDER<br><br>The collection of data from the domain name registrant serves not only the purpose of establishing rights of the registrant in a registered name, but also for establishing obligations. This includes the obligation for the registrant to comply with the various terms and conditions established in the contract between the registrar and the registrant.  Rights and obligations go hand-in-hand, and therefore the purpose of obtaining the data from the registrant to establish the rights in the name cannot be separated from the purpose of obtaining the data to fulfill the obligations that go along with domain name ownership.  Article 6(1)(b) of the GDPR establishes the legality of collecting and processing personal data "for the performance of a contract to which the data subject is party . . . ."  The performance of any contract involves OBLIGATIONS in | Brian King; IPC | Concerns<br>**EPDP Response:**<br><br>**Action Taken:**<br><br>[**COMPLETED / NOT COMPLETED**] – [Instruction of what was done.] |

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| | addition to rights. Therefore, adding the language suggested concerning obligations makes this proposed purpose more compliant with the GDPR. | | |
| 10. | (I) TO ESTABLISH THE RIGHTS AND OBLIGATIONS OF A REGISTERED NAME HOLDER IN A REGISTERED NAME;<br><br>MarkMonitor believes that limiting this purpose to establishing the "rights" of a registrant in the registered name is overly narrow. Referring to both the rights "and obligations" of the registrant more accurately reflects the practical and legal context in which a name is registered. For example, a registrant provides their contact details not only to establish their claim to a specific domain, but also for the purposes of the registrar and third parties being on notice that such domain is subject to the claim of the registrant. The registrant also agrees to certain obligations in connection with their registration, and the provision of their data is integral to establishing the identity of the registrant so that the registrar, registry operators and (potentially) third parties are able to identify the party which has undertaken such obligations, even beyond Purpose 3 which deals with communication. | Brian King; MarkMonitor, Inc., a Clarivate Analytics company | Concerns<br>**EPDP Response:**<br><br>**Action Taken:**<br><br>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.] |
| 11. | AS SUBJECT TO REGISTRY AND REGISTRAR TERMS, CONDITIONS AND POLICIES, AND ICANN CONSENSUS POLICIES:<br>(I)        TO ESTABLISH THE RIGHTS AND OBLIGATIONS OF A REGISTERED NAME HOLDER IN A REGISTERED NAME;<br>(II)       TO ENSURE THAT A REGISTERED NAME HOLDER MAY EXERCISE ITS RIGHTS AND FULFILL ITS OBLIGATIONS IN THE USE AND DISPOSITION OF THE REGISTERED NAME; AND<br>(III)      TO ACTIVATE A REGISTERED NAME AND ALLOCATE IT TO THE REGISTERED NAME HOLDER<br><br>ICANN, registrars, registry operators, and registered domain name holders have long been subject to certain requirements regarding registration of a domain name. For example, the Registrar Accreditation Agreement requires that "[t]he Registered Name Holder shall represent that, to the best of the Registered Name Holder's knowledge and belief, neither the registration of the Registered Name nor the manner in which it is directly or indirectly used infringes the legal rights of any third party," RAA, sec. 3.7.7.9 (emphasis added), https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en#raa. Similarly, the Registry Agreement provides that the "Registry Operator will include a provision in its Registry-Registrar Agreement that requires Registrars to include in their Registration Agreements a provision prohibiting Registered Name Holders from distributing malware, abusively operating botnets, phishing, piracy, trademark or copyright infringement, fraudulent or deceptive practices, counterfeiting or otherwise engaging in activity contrary to applicable law, and providing (consistent with applicable law and any related procedures) consequences for such activities including suspension of the domain name," Registry Agreement, Specification 11, sec. 3(a) (emphasis added), | Neil Fried; The Motion Picture Association of America | Concerns<br>**EPDP Response:**<br><br>**Action Taken:**<br><br>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.] |

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| | https://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-31jul17-en.html#specification11. Ensuring compliance with obligations such as these will require collection and processing of data as part of the WHOIS system, including providing access to third parties. | | |
| 12. | The RySG recommends separating Purpose 1 as currently written into two separate purposes and amending the language as follows:<br>"IN ACCORDANCE WITH THE RELEVANT REGISTRY AGREEMENTS AND REGISTRAR ACCREDITATION AGREEMENTS, ACTIVATE A REGISTERED NAME AND ALLOCATE IT TO THE REGISTERED NAME HOLDER."<br><br>and<br><br>"AS SUBJECT TO REGISTRY AND REGISTRAR TERMS, CONDITIONS AND POLICIES, AND ICANN CONSENSUS POLICIES:<br>(i) ESTABLISH THE RIGHTS OF A REGISTERED NAME HOLDER IN A REGISTERED NAME, AND<br>(ii) ENSURE THAT A REGISTERED NAME HOLDER MAY EXERCISE ITS RIGHTS IN THE USE AND DISPOSITION OF THE REGISTERED NAME."<br><br>The RySG believes that Purpose 1 encompasses the fundamental and primary reasons for which gTLD registration data is processed in the domain name registration ecosystem. However, as written, the Purpose 1 text captures two separate and distinct purposes: one is the technical provisioning of a domain name registration and the second is the establishment of the Registered Name Holder's rights in that domain. The latter of these two purposes may be conditioned by (or subject to) registry or registrar terms, conditions or policies at the option of the registry or registrar, but the former is not. Furthermore, these two purposes may require different processing and/or different data elements to achieve them, with the data elements necessary to achieve the establishment of the rights to the domain dependent on the specific terms, conditions and policies implemented by the registry or registrar. | Wim Degezelle ; RySG | Concerns<br>**EPDP Response:**<br><br>**Action Taken:**<br><br>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.] |

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| 13. | (I) TO ESTABLISH THE RIGHTS AND OBLIGATIONS OF A REGISTERED NAME HOLDER IN A REGISTERED NAME;<br>(II) TO ENSURE THAT A REGISTERED NAME HOLDER MAY EXERCISE ITS RIGHTS AND FULFILL ITS OBLIGATIONS IN THE USE AND DISPOSITION OF THE REGISTERED NAME; AND<br><br>The collection of data from the domain name registrant serves not only the purpose of establishing rights of the registrant in a registered name, but also for establishing obligations. These include the obligation to pay the registrar the appropriate periodic fee for the registered name and the obligation for the registrant to comply with the various terms and conditions established in the contract between the registrar and the registrant. Rights and obligations go hand-in-hand, and therefore the purpose of obtaining the data from the registrant to establish the rights in the name cannot be separated from the purpose of obtaining the data to fulfill the obligations that go along with domain name ownership. Article 6(1)(b) of the GDPR establishes the legality of collecting and processing personal data "for the performance of a contract to which the data subject is party . . . ." The performance of any contract involves OBLIGATIONS in addition to rights. Therefore, adding the language suggested concerning obligations makes this proposed purpose more compliant with the GDPR. | Dean S. Marks; Coalition for Online Accountability | Concerns<br>**EPDP Response:**<br><br>**Action Taken:**<br><br>[**COMPLETED / NOT COMPLETED**] – [Instruction of what was done.] |
| 14. | (I) TO ESTABLISH THE RIGHTS AND OBLIGATIONS OF A REGISTERED NAME HOLDER IN A REGISTERED NAME;<br><br>Microsoft notes that a registrant provides their contact details not only to establish their claim to a specific domain, but also in agreement to certain obligations in connection with their registration, and the provision of their data is integral to establishing the identity of the registrant so that the registrar, registry operators and (potentially) third parties are able to identify the party which has undertaken such obligations, even beyond Purpose 3 which deals with communication. | Jeremy Dallman, David Ladd – Microsoft Threat Intelligence Center; Amy Hogan-Burney, Richard Boscovich – Digital Crimes Unit; Makalika Naholowaa, Teresa Rodewald, Cam Gatta – Trademark; Mark Svancarek, Ben Wallace, Paul Mitchell – Internet Technology & Governance Policy; Cole Quinn – Domains and Registry; Joanne Charles – Privacy & Regulatory Affairs; Microsoft Corporation | Concerns<br>**EPDP Response:**<br><br>**Action Taken:**<br><br>[**COMPLETED / NOT COMPLETED**] – [Instruction of what was done.] |
| **Significant change required: changing intent and wording** | | | |
| 15. | AS SUBJECT TO REGISTRY AND REGISTRAR TERMS, CONDITIONS AND POLICIES, AND ICANN CONSENSUS POLICIES: TO RECORD AND MAINTAIN RECORDS OF THE NAMES AND CONTACT INFORMATION OF DOMAIN NAME REGISTRANTS.<br><br>A registrant's relatively simple act of registering a domain name automatically sets in motion registrar and registry processes which activate the domain name and generate "data elements" required to populate "data fields" in the WHOIS (RDS) directory, however it is solely that data | John Poole; Domain Name Registrant | Concerns<br>**EPDP Response:**<br><br>**Action Taken:**<br><br>[**COMPLETED / NOT COMPLETED**] – [Instruction of what was done.] |

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| | related to the "name" and "contact information" of the "registrant," to which GDPR and other privacy laws apply. The only "primary purpose" of processing this limited data (and any consequent "Registry ID") is as stated above.<br><br>What James Bladel (GoDaddy, RrSG) told the EPDP working group more than once, including Aug 7, 2018 (transcript), is VERY IMPORTANT: "We're talking about collection of data for the purposes of publication in an RDS system or an online directory and that is, again, not something that we [registrars] need in order to serve our customer, our registrant customers … we have our own internal communications with those customers" [e.g., additional contact information, banking and credit card info, etc.]<br><br>This is the time to cleanup the WHOIS registrant data fields, simplify, clarify, and minimize, in compliance with GDPR and other data privacy laws. Therefore, this EPDP should recommend that the Admin and Tech contact categories, the Organization field, and the Fax fields, in the presently collected data elements, be deleted in their entirety,  as same are redundant, confusing, unnecessary data elements which violate GDPR data minimization requirements. See EPAG case and https://www.dataguise.com/gdpr-compliance-data-minimization-use-purpose/. I discuss this further in my responses below.<br><br>EXAMPLE re: https://www.whois.com/whois/facebook.com -- For your reference I have prepared a graphic of my proposed GDPR compliant "New" WHOIS data compared to the "Old" WHOIS data elements: goo.gl/CdqE81 (go to link) | | |
| 16. | IV) To ensure transparency in the Domain Name Registration process.<br><br>It is important to ensure the availability of unregistered names to natural and artificial persons without the availability status being masked in the middle paving way for speculative transactions by intermediaries which may not always be fair. This purpose is added to ensure fairness in the availability of Domain Names to natural and artificial persons; It is acknowledged that some names that are beyond the purview of TradeMarks are desirable names by many, hence have a premium value. To ensure fairness and transparency of opportunities for registering premium names by existing and new processes between ICANN and Registries. | Sivasubramanian Muthusamy; Internet Society India Chennai | Concerns<br>**EPDP Response:**<br><br>**Action Taken:**<br><br>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.] |
| Purpose should be deleted | | | |
| 17. | Not designated and no comments submitted | | Divergence<br>**EPDP Response:**  none<br><br>**Action Taken:**  none  [COMPLETED] |

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| **Not designated** | | | |
| **18.** | No selection made and no additional comments submitted | • Steve Gobin; Corporate domain name management<br>• Theo Geurts<br>• Ivett Paulovics; MFSD Srl URS Provider<br>• Greg Mounier on behalf of Europol AGIS; Europol Advisory Group on Internet Security<br>• Monique A. Goeschl; Verein für Anti-Piraterie der Film- und Videobranche (VAP)<br>• Brian Beckham; Head, Internet Dispute Resolution Section, WIPO<br>• Ashley Roberts; Valideus<br>• Ashley Heineman; NTIA<br>• Renee Fossen; Forum - URS and UDRP Provider<br>• Stephanie Perrin<br>• Fabien Betremieux; GAC | **EPDP Response:** none<br><br>**Action Taken:** none [<mark>COMPLETED</mark>] |