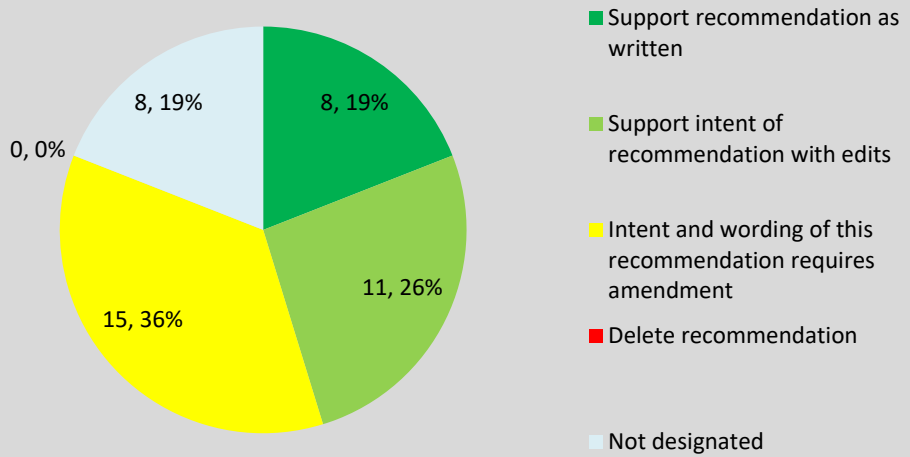


RECOMMENDATION 12

#	Comment	Contributor	EPDP Response / Action Taken
	<p>The EPDP Team recommends that the current requirements in the Temporary Specification in relation to reasonable access remain in place until work on a system for Standardized Access to Non-Public Registration Data has been completed, noting that the terms should be modified to refer to “parameters for responding to lawful disclosure requests.” Furthermore, the EPDP Team recommends that criteria around the term “reasonable” are further explored as part of the implementation of these policy recommendations addressing:</p> <ul style="list-style-type: none"> • [Practicable]* timelines criteria for responses to be provided by Contracted Parties; • Format by which requests should be made and responses are provided; • Communication/Instructions around how and where requests should be submitted; • Requirements for what information responses should include (for example, auto-acknowledgement of requests and rationale for rejection of request); • Logging of requests. <p>[*Some concern expressed that timeliness that should not be translated into requirements that are impractical for contracted parties].</p>		



#	Comment	Contributor	EPDP Response / Action Taken
Support recommendation as written			
1.	No comments provided in support of this recommendation	<ul style="list-style-type: none"> • Tim Chen; DomainTools • Monica Sanders; i2Coalition • David Martel • Etienne Laurin • Steve Gobin; Corporate domain name management 	<p>Support</p> <p>EPDP Response: The EPDP appreciates the support</p> <p>Action Taken: none</p> <p>[COMPLETED]</p>
2.	The recommendation text seems fine. However, the availability of latest iteration of ICANN's "Framework Elements for Unified Access Model for Continued Access to Full WHOIS Data" should be mentioned since a system for Standardized Access to NonPublic Registration Data is being referred. Further, incorporating the solutions and best practices as proposed in other community Accreditation and Access models (like IPC/BC, Philly Special and APWG WhASHmodels) should also be explored.	DR. JAIDEEP KUMAR MISHRA ; DIRECTOR MINISTRY OF ELECTRONICS AND INFORMATION TECHNOLOGY, GOVERNMENT OF INDIA	<p>Support</p> <p>EPDP Response: The EPDP appreciates the support</p> <p>Action Taken: none</p> <p>[COMPLETED]</p>
3.	<p>We recommend standardized, transparent requirements for "reasonable access" that can be clearly understood by contracted parties and potential requestors, and are clear enough to be enforced by ICANN Compliance. The current lack of definition inhibits reasonable requests and impacts the ability of security actors to fight abuse and cybercrime. Notable accounts of these problems are contained in the Joint APWG/M3AAWG GDPR and WHOIS User Survey results, and statements from the 60-plus members of the Cybersecurity Tech Accord. The Temp Spec's current requirement is so vague as to be unenforceable</p> <p>See SAC104 for additional comments and information.</p>	Ben Butler; SSAC	<p>Support</p> <p>EPDP Response: The EPDP appreciates the support</p> <p>Action Taken: none</p> <p>[COMPLETED]</p>
4.	We strongly support replacing "Standardized Access to Non-Public Registration Data" with "parameters for responding to lawful disclosure requests," as that more accurately describes the objective. We understand that the topic of lawful disclosure is a controversial one and may take some time to resolve fully. In the meantime, the general guideline in the temp spec, subject to the modification proposed in Recommendation 12 and further fleshing out of the parameters in the implementation process as proposed above, is something that all stakeholder groups can support	Farzaneh Badii; Internet Governance Project	<p>Support</p> <p>EPDP Response: The EPDP appreciates the support</p> <p>Action Taken: none</p> <p>[COMPLETED]</p>

#	Comment	Contributor	EPDP Response / Action Taken
Support intent of recommendation with edits			
5.	<p>Modify the first sentence of the recommendation to read: "The EPDP Team recommends that the current requirements in the Temporary Specification in relation to reasonable access remain in place until work on a system for Standardized Access to NonPublic Registration Data has been completed and incorporated in the Team's Final Report, noting that the term should be modified to refer to "parameters for responding to lawful disclosure requests."</p> <p>Third parties that currently have a legitimate interest and lawful purpose for gaining access to non-public registrant data face a confusing array of different registrar and registry requirements and processes to access this data making such access extremely difficult, inefficient and, in many cases, non-existent.</p> <p>The EPDP Team's work is incomplete until the issue of setting parameters and recommending a process for responding to lawful disclosure requests to redacted data has been resolved.</p>	Dean S. Marks; Coalition for Online Accountability	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>
6.	<p>INTA recommends that the clause: "Furthermore, the EPDP Team recommends that criteria around the term "reasonable" are further explored as part of the implementation of these policy recommendations addressing:" Be amended to read: "Furthermore, the EPDP Team recommends that definitions, criteria and processes around the term "reasonable access" will be determined as part of the final policy including how to address:"</p> <p>Third parties that currently have a legitimate interest and lawful purpose for gaining access to non-public registrant data face a confusing array of different registrar and registry requirements and processes to access this data making such access extremely difficult, inefficient and, in many cases, non-existent.</p> <p>Third parties that currently have a legitimate interest and lawful purpose for gaining access to non-public registrant data face a confusing array of different Registrar and Registry requirements and processes to access this data making such access extremely difficult, inefficient and, in many cases, non-existent.</p> <p>INTA members, through responses submitted to INTA's WHOISchallenges.org mailbox, report that ICANN's implementation of the Temporary Specification has adversely affected access and usage of domain name registration information and the ability to address infringing activity and to mitigate abuse. With only a small percentage of Registrars returning complete WHOIS records, the impact felt by the absence of Registrant data is pervasive. Data recently published by MarkMonitor, an INTA member, revealed that nearly 80% of the requests for registrant data made to Registrars have been either ignored or denied. While the EPDP Team works on a future policy regarding standardized access as referenced in Recommendation #2, the EPDP Team should now also define and develop simple processes around "reasonable access" and make</p>	Lori Schulman Senior Director, Internet Policy; International Trademark Association (INTA)	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>

#	Comment	Contributor	EPDP Response / Action Taken
	<p>sure that implementation details of these processes are completed within this EPDP and not delayed until future discussions regarding implementation.</p>		
7.	<p>The EPDP Team recommends that the current requirements in the Temporary Specification in relation to reasonable access remain in place until work on a system for Standardized Access to Non-Public Registration Data has been completed and consensus has been achieved; this can only occur after resolution of the gating questions.</p> <p>We support the Recommendation as written but note that determination of legitimate purpose must be conducted on a per-request basis. It is simply not the case that a party's status is sufficient to be provided with full access to all personal data. Each request for access must include justification and be reviewed individually, understanding the balance between the right of the requestor for access to personal data where appropriate and the natural person's right to privacy. This is a balancing test and will, necessarily, be different in each case.</p> <p>Each registry and registrar should be able to evaluate to whom they may disclose personal data. It would be impossible to have a blanket order to disclose personal data as the legitimacy of such disclosure is not merely dependent upon the identity of the requestor but must include balancing other factors such as the requestor, the jurisdiction of the data subject, and the legal basis. Tucows will push back strongly on any attempt to contractually bind them to disclose data without such a balancing test.</p>	Tucows Domains Inc.	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>
8.	<p>The AG IS supports the intent of the recommendation but notes that it is important to provide a means for multiple queries, particularly when pivoting off fields in an investigation, and reverse Whois, which is critical for cybersecurity investigations. Moreover, there should be a means for expedient access in certain circumstances, such as a global cybersecurity attack. To the extent queries are logged, there should be guidance for how this will work, what would be included in the logs, and permitted uses of the logs.</p>	Greg Mounier on behalf of Europol AGIS; Europol Advisory Group on Internet Security	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>
9.	<p>The Business Constituency recommends that the clause: "Furthermore, the EPDP Team recommends that criteria around the term "reasonable" are further explored as part of the implementation of these policy recommendations addressing:" be amended to read: "Furthermore, the EPDP Team recommends that definitions, criteria, and processes around the term "reasonable access" will be determined as part of the final policy including how to address:"</p> <p>Third parties that currently have a legitimate interest and lawful purpose for requesting disclosure of non-public registrant data face a confusing array of different registrar and registry requirements and processes, making access extremely difficult, inefficient and, in many cases,</p>	Steve DelBianco; BC	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>

#	Comment	Contributor	EPDP Response / Action Taken
	<p>non-existent.</p> <p>According to a survey conducted by INTA, the redaction of registrant data has made enforcement of intellectual property rights more difficult. Data recently published by MarkMonitor, a leading brand protection company, revealed that nearly 80% of the disclosure requests for registrant data made to registrars have been either ignored or denied. While the EPDP Team works on a future policy regarding standardized access as referenced in Recommendation #2, the EPDP Team should now also define and develop simple processes around “reasonable access” and make sure that implementation details of these processes are completed within this EPDP and not delayed until future discussions regarding implementation.</p>		
10.	<p>“Furthermore, the EPDP Team recommends that definitions, criteria, and processes around the term ‘reasonable access’ be determined as part of the final policy addressing:”</p> <p>“Reasonable access” must be defined in a complete and holistic fashion</p> <p>Data recently published by MarkMonitor, a leading brand protection company, revealed that nearly 80% of the disclosure requests for registrant data made to registrars under the current Temp Spec have been either ignored or denied.</p> <p><https://www.markmonitor.com/mmblog/gdpr-and-whois-adverse-impacts-on-brand-protection></p> <p>This does not seem “reasonable” and is a consequence of the Temp Spec’s lack of definition for the term. In the absence of a definition, every registrar must define their own standard of reasonableness, and this has generally resulted in no access at all.</p>	<p>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</p>	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>
11.	<p>The EPDP Team recommends that the current requirements in the Temporary Specification in relation to reasonable access remain in place until work on a system for Standardized Access to NonPublic Registration Data has been completed AND INCORPORATED IN THE TEAM’S FINAL REPORT, noting that the term should be modified to refer to “parameters for responding to lawful disclosure requests.”</p> <p>The Team’s work is incomplete until the issue of setting parameters for responding to lawful disclosure requests to redacted data has been resolved. A recommendation that lacks any deadline for achieving this resolution is equally defective. As noted above, the Temp Spec should not be superseded by a consensus policy that lacks a strong model for access to redacted data by legitimate third parties. In order to kick start the process, IPC proposes starting from and building upon the consensus policy already adopted (though not yet implemented) for privacy/proxy disclosures.</p>	<p>Brian King; IPC</p>	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>

#	Comment	Contributor	EPDP Response / Action Taken
12.	<p>"The EPDP Team recommends that the current requirements in the Temporary Specification in relation to reasonable access remain in place until work on access has been completed which will not begin until after the gating questions have been answered."</p> <p>Premature to be discussing "Access recommendations" until the gating questions have been answered. Read the EPDP Charter.</p>	John Poole; Domain Name Registrant	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>
13.	<p>the U.S. would like to see these criteria “incorporated” as opposed to “further explored” as part of implementation, consistent with the GAC comments.</p> <p>The U.S. believes the criteria provide much needed predictability and clarity around the obligation of “reasonable access” including what the process and expectations for requesting and providing access need to be. The criteria are easy to implement as contracted parties have the flexibility to implement them in a manner that works for individual business models with the only obligation being to make the terms publicly available and otherwise communicated to the requesting parties. The U.S. wants these criteria incorporated as part of implementation and believes they will streamline the process of requesting and providing access for all parties.</p>	Ashley Heineman; NTIA	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>
14.	<p>The EPDP Team recommends that the current requirements in the Temporary Specification in relation to reasonable access remain in place until work on a system for Standardized Access to NonPublic Registration Data has been completed and incorporated in the team’s final report, noting that the term should be modified to refer to “parameters for responding to lawful disclosure requests.” Furthermore, the EPDP Team recommends that criteria around the term “reasonable” are further explored as part of the implementation of these policy recommendations addressing: ...</p> <p>The Temporary Specification was meant to be just that: temporary. Absent a completed recommendation in the final report specifically delineating how contracted parties will provide access to redacted data to parties with a legitimate interest, as well as a deadline for creating that system, the EPDP runs the risk of unreasonably prolonging the Temp Spec. The result would be merely a redaction policy, rather than the standardized access model to non-public registration data that the EPDP is tasked with formulating. Nonetheless, if the May 25th deadline for expiration of the Temp Spec arrives without formulation of a standardized access model completed, the Temp Spec should be extended. To do otherwise might suggest that contracted parties are no longer under any obligations, resulting in a hodgepodge of access policies. This would put strains on the credibility and legitimacy of the multistakeholder governance model, increase the odds that nations enact WHOIS or ICANN-specific laws, and lead to fragmentation that creates added complexity in developing and enforcing ICANN policy as well as jeopardizes the security, stability, and resiliency of the DNS system.</p>	Neil Fried; The Motion Picture Association of America	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>

#	Comment	Contributor	EPDP Response / Action Taken
15.	<p>Third parties that have a legitimate interest and lawful purpose for requesting disclosure of non-public registrant data face a confusing array of different registrar and registry requirements and processes, making access extremely difficult, inefficient and, in many cases, non-existent.</p> <p>The Walt Disney Company itself has faced challenges when making requests for registrant data to registrars. Since the GDPR went into effect, The Walt Disney Company has experienced a number of delays and denials to data requests that were crucial for addressing a number of intellectual property infringements. For example, in June 2018, The Walt Disney Company made a registrant contact information request to a registrar due to a trademark infringement. The request was not fulfilled and The Walt Disney Company was told that it needed a subpoena to receive the information.</p> <p>The Walt Disney Company’s experience is in line with the discoveries of a number of recent studies. For example, according to a survey conducted by INTA, the redaction of registrant data has made enforcement of intellectual property rights more difficult. Additionally, MarkMonitor recently published data revealing that nearly 80% of the requests for registrant data made to registrars have been either ignored or denied.</p> <p>While the EPDP Team works on a future policy regarding standardized access, it should also work on defining and developing simple processes around “reasonable access.”</p>	Sajda Ouachtouki; The Walt Disney Company	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>

#	Comment	Contributor	EPDP Response / Action Taken
Intent and wording of this recommendation requires amendment			
16.	<p>The EPDP Team recommends that the current requirements in the Temporary Specification in relation to reasonable access remain in place until work on a system for Standardized Access to Non-Public Registration Data has been completed, noting that the term should be modified to refer to “parameters for responding to lawful disclosure requests.” Furthermore, the EPDP Team recommends that criteria around the term “reasonable” are further explored and incorporated as part of the implementation of these policy recommendations addressing:</p> <ul style="list-style-type: none"> • [Practicable]* timelines for responses to disclosure requests be provided by Contracted Parties; • Published format by which requests should be made and responses are provided; • Communication/Published instructions around how and where requests should be submitted; • Requirements for what information responses should include (for example, auto-acknowledgement of requests and rationale for rejection of request); • Logging of requests with appropriate safeguards to ensure non-disclosure of legitimate law enforcement activities <p>As we advised in our Barcelona Communiqué advice (25 October 2018), the current Temporary Specification has created a fragmented system for providing access consisting of potentially thousands of distinct policies and practices depending upon the registrar involved. This lack of consistent policies and practices to access non-public information causes delays. When investigations are delayed or stopped, the potentially injurious conduct continues to harm the public with negative results that include physical and financial harm.</p> <p>While the EPDP team’s recommendation identifies a number of criteria that work to better define “reasonable access” to non-public information, the GAC believes that work on a unified access model needs to also proceed as soon as possible and in parallel with the EPDP efforts.</p>	Fabien Betremieux; GAC	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>
17.	<p>The current "requirements" are so vague as to be unworkable and unenforceable. there do need to be more specific, measureable, enforceable requirements of the kinds contemplated in Rec 12. At minimum, the following are easy to implement immediately: 1) Links and instructions for data requests must be placed on registrar and registry operator web sites 9just like they are required to have abuse links and contacts on home pages per the ICANN contracts.) 2) Contracted party must provide written acknowledgement of receipt of the request, and 3) must return a written response with either the data or the reason for the rejection, within three days.</p>	Greg Aaron; iThreat Cyber Group	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>

#	Comment	Contributor	EPDP Response / Action Taken
18.	<p>Timelines should also be made for allowing opt-in by registrants to public WHOIS.</p> <p>It has been 7 months since GDPR went into effect, and some registrars still haven't implemented a method for registrants to opt-in to public WHOIS. "Commercially reasonable" hasn't been defined, but surely it shouldn't take this long to be able to show one's own WHOIS, if one wants to opt-in to do so.</p>	George Kirikos; Leap of Faith Financial Services Inc.	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>
19.	<p>It is unclear what the ALTERNATIVE is to continuing to use the current methodology.</p>	Evin Erdoğan; ALAC	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>
20.	<p>The EPDP Team recommends that the current requirements in the Temporary Specification in relation to reasonable access remain in place until work on a system for Standardized Access to NonPublic Registration Data has been completed and incorporated in the Team's Final Report, noting that the term should be modified to refer to "parameters for responding to lawful disclosure requests."</p> <p>Third parties that currently have a legitimate interest and lawful purpose for gaining access to non-public registrant data face a confusing array of different registrar and registry requirements and processes to access this data making such access extremely difficult, inefficient and, in many cases, non-existent.</p> <p>According to a survey conducted by INTA, the redaction of registrant data has made enforcement of intellectual property rights more difficult.</p> <p>MarkMonitor recently published data revealing that nearly 80% of the requests for registrant data made to registrars have been either ignored or denied. While the EPDP Team works on a future policy regarding standardized access as referenced in Recommendation #2, the EPDP Team should now also define and develop simple processes around "reasonable access" and make sure that implementation details of these processes are completed within this EPDP and not delayed until future discussions regarding implementation.</p> <p>The Team's work is incomplete until the issue of setting parameters for responding to lawful disclosure requests to redacted data has been resolved. A recommendation that lacks any deadline for achieving this resolution is equally defective. As noted above, the Temp Spec</p>	Brian King; MarkMonitor, Inc., a Clarivate Analytics company	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>

#	Comment	Contributor	EPDP Response / Action Taken
	<p>should not be superseded by a consensus policy that lacks a strong model for access to redacted data by legitimate third parties. In order to kick start the process, MarkMonitor supports starting from and building upon the consensus policy already adopted (though not yet implemented) for privacy/proxy disclosures.</p>		
21.	<p>This recommendation should be rewritten to make the distinguish between law enforcement requests, private party disclosure requests, and pseudonymized access for research purposes.</p> <p>The legal bases for these three use cases are different. Also, this approach will also be driving by whether ICANN or contracted parties will be required to fulfill disclosure requests.</p> <p>Additionally, it is important to note and emphasize that “reasonableness” does not refer to the ease of access, but rather must take into consideration whether such access is lawful, because nothing is reasonable if it creates legal liability for the Contracted Parties.</p>	Sara Bockey; GoDaddy	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>
22.	<p>Each registry and registrar should be able to evaluate to whom they may disclose personal data. There are local laws to take into consideration, as well as any data privacy legislation. It would be impossible to have a blanket order to disclose personal data as it would depend on the requestor. Each registry and registrar has their own processes for such disclosure. Registrars will push back strongly on any attempt to contractually bind them to disclose data.</p>	<ul style="list-style-type: none"> • Volker Greimann; Key-Systems GmbH • Zoe Bonython; RrSG • Michele Neylon; Blacknight Internet Solutions Ltd 	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>
23.	[No rationale or amendment provided]	Domain.com, LLC & affiliates	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>

<p>24.</p>	<p>DNRC strongly supports replacing “Standardized Access to Non-Public Registration Data” with “parameters for requesting lawful disclosure requests,” as that more accurately describes the objective.</p> <p>It will simply be insufficient to state a mere category of request for data, e.g., “intellectual property allegation” or “law enforcement need.” The requirements of GDPR dictate that prior to revealing the personal and sensitive data of registrants, there is an evaluation that must take place.</p> <p>For law enforcement, for example, given the wide differences of law across the jurisdiction, an allegation of “criminal illegality of content,” for example, would have to be followed up with discussion of the jurisdiction of the registrant, registrar, and registry. For the disclosure of personal and sensitive individual and organizational data from countries in which the registrant is protected by national law, e.g., US First Amendment, to law enforcement in countries that seek to ban that type of speech, e.g., pro-democracy speech (China and other countries), pro-gay speech (Nigeria and other countries that make this speech a criminal and even capital offense), and even views of history not endorsed or told by certain governments.</p> <p>GDPR Article 6-1(f) requires an evaluation, even of law enforcement and intellectual property requests, that is not standard, but rather sufficiently detailed and targeted to show that “processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.”</p> <p>That is not a standard form or request, but could be a pre-defined set of “parameters for requesting lawful disclosure requests</p> <p>By way of background: Art. 6 GDPR Lawfulness of processing Processing shall be lawful only if and to the extent that at least one of the following applies: the data subject has given consent to the processing of his or her personal data for one or more specific purposes; processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract; processing is necessary for compliance with a legal obligation to which the controller is subject; processing is necessary in order to protect the vital interests of the data subject or of another natural person; processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority vested in the controller; processing is necessary for the purposes of the legitimate interests pursued by the controller or</p>	<p>A. Mark Massey; Domain Name Rights Coalition</p>	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>COMPLETED / NOT COMPLETED – [Instruction of what was done.]</p>
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#	Comment	Contributor	EPDP Response / Action Taken
	<p>by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.</p>		
25.	<p>The RySG recommends the following edits to Recommendation #12: “The EPDP Team recommends that the current requirements in the Temporary Specification in relation to reasonable access remain in place until work on the second phase of the EPDP Charter on data access issues is addressed, noting that the term should be modified to refer to ‘parameters for responding to lawful disclosure requests.’ During the second phase of the ePDP Charter work, the EPDP Team expects that criteria around the term ‘reasonable’ may be further explored.”</p> <p>The RySG has noted its concern that repeated efforts by some EPDP Team members to focus on access to, and/or disclosure of, data in the initial phases of the EPDP’s work has significantly hampered the group’s ability to make progress on the core issues of defining purposes for data collection and the roles and responsibilities of parties. The Charter explicitly states that data access questions are to be addressed in the second phase of the EPDP. Therefore, inclusion of this recommendation, as written, is premature and serves to predetermine the issue to be discussed. The RySG looks forward to discussing these issues in the second phase of the EPDP’s work.</p> <p>The RySG has consistently stated its willingness to discuss access to data by third-parties as part of the second phase of the EPDP as outlined in its Charter, including discussion of an access model for lawful data access requests. The RySg looks forward to engaging with EPDP members to identify processes to streamline third-party data access requests and potential disclosure.</p>	Wim Degezelle ; RySG	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>
26.	<p>See provisions of the EU Regulation for platform-to-business trade promoting fairness and transparency for business users of online intermediation services. https://ec.europa.eu/digital-single-market/en/platforms-to-business-trading-practices</p> <p>Internet infrastructure providers have a gateway function - there is an imbalance of informational power that must be rectified by transparency and due diligence by the providers. From the viewpoint of a third party with legitimate requests, there should also be the possibility to object to decisions by infrastructure providers not to provide requested information. These decisions are often haphazard and inconsistent with transparency recommendations.</p>	Monique A. Goeschl; Verein für Anti-Piraterie der Film- und Videobranche (VAP)	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>

#	Comment	Contributor	EPDP Response / Action Taken
27.	<p>The NCSG strongly supports replacing “Standardized Access to Non-Public Registration Data” with “parameters for requesting lawful disclosure requests,” as that more accurately describes the objective.</p> <p>The NCSG strongly supports replacing “Standardized Access to Non-Public Registration Data” with “parameters for requesting lawful disclosure requests,” as that more accurately describes the objective. We understand that the topic of lawful disclosure is a controversial one and may take some time to resolve fully. In the meantime, the general guideline in the temp specification, subject to the modification proposed in Recommendation 12 and further fleshing out of the parameters in the implementation process as proposed above, is something that all stakeholder groups can support.</p> <p>It will simply be insufficient to state a mere category of request for data; for instance, “intellectual property allegation” or “law enforcement need.” The requirements of the GDPR dictate that prior to revealing the personal and sensitive data of a data subject, there is a balancing test that must take place.</p>	Ayden Férdeline; NCSG	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>
28.	<p>[Practicable]* timelines criteria for responses to be provided by ICANN .</p> <p>The timeline criteria provided by contracted parties may differ from one contracted party to another based on each party's data infrastructure and overall organizational factors. Instead the timeline criteria could be provided by ICANN which could act as a single contact point for access requests which it could process in accordance with the policy that it is developing by its multi-stakeholder global process. Even the data access could be granted from ICANN Compliance database / escrow , by privilege levels as determined by the class of requester and the nature of request. Such a process may remarkably reduce the burden on Registries and Registrars and would also considerably ease the processes for the Requester who would otherwise have to request access from multiple Registries and Registrars, each in a different geographic location. If ICANN chooses to make lawful access as a single window process, it could design technical safeguards thoroughly, with more layers of security than any independant Registry or Registrar could afford to, while its legal team may have to designate this activity as a Service qualifying for as much legal immunity as could be built in, for its Board, Senior Staff and also with clauses for all legal costs pre-deflected to Requesters.</p>	Sivasubramanian Muthusamy; Internet Society India Chennai	<p>Concerns</p> <p>EPDP Response:</p> <p>Action Taken:</p> <p>[COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>

#	Comment	Contributor	EPDP Response / Action Taken
Delete recommendation			
29.	[None]		Divergence EPDP Response: Action Taken: [COMPLETED / NOT COMPLETED] – [Instruction of what was done.]
Not designated			
30.	No selection made and no additional comments submitted	<ul style="list-style-type: none"> • Brian Beckham; Head, Internet Dispute Resolution Section • Theo Geurts • Ivett Paulovics; MFSD Srl URS Provider • Ashley Roberts; Valideus • Renee Fossen; Forum - URS and UDRP Provider • Stephanie Perrin 	EPDP Response: none Action Taken: none [COMPLETED]
31.	No comment on such recommendation can be made until the EPDP team had a full discussion of the matter.	<ul style="list-style-type: none"> • Lars Steffen; eco – Association of the Internet Industry • Wolf-Ulrich Knoben; ISPCP Constituency 	EPDP Response: none Action Taken: none [COMPLETED]