

## Additional Questions to Legal Counsel

### **1. Redaction of City Field**

Thomas' comment toward the end of our last meeting led me to reconsider how to discuss whether the city name should be redacted. Paraphrasing, Thomas stated that, "everyone agrees the city name is personal data, the question is whether there is a legal basis for publishing it in the Whois database." (Thomas: I am very open to correction on this.)

Based on the Toronto transcripts, I don't think there is team agreement on whether the city name is personal data.

Therefore, I believe the city redaction discussion properly set up, is a two-part question:

(1) If the city name is added to the current list in the Initial Report of published data, is the city name personal data? (Perhaps in addition is the city name on its own, personal data?)

(2) If the answer above is yes, Is there a lawful basis 6(1)f for publishing a subset of the data submitted by the registered name holder that includes the city name, where:

- the legitimate interest is those pursuing legal claims can determine jurisdictional issues prior to asserting the claim\*
- overcomes the rights of all registrants in not having their personal data published.

\*This legitimate interest was gleaned from the transcript in Toronto.

### **2. Accuracy of Registration Data - Scope**

The GDPR requirement is to accurately record, maintain and process the data provided by the data subject and to update that information as informed by the data subject.

From our last meeting notes, we would ask:

Are there circumstances where the accuracy requirements are broader? I.e., must the data collector ensure in some way that the data is not inaccurate or misleading? Are there proactive obligations under GDPR to take reasonable steps to delete or correct inaccurate data received from the data subject? What scenarios (with regard to publishing data that is not accurate) would lead to registrars being in violation of the GDPR?

We understand that the obligation to accurately record data as provided by the registrar is covered by Art. 5 1 d GDPR. Are there additional requirements for the registrar to validate the accuracy of data elements, i.e. whether the data provided by the data subject is accurate to meet the purpose for which it is collected?

### 3. Establishment

**ICANN establishment within the EU:** We seek guidance on territorial scope of GDPR, particularly the issue of ICANN having stable establishments within the EU, and how this impacts its responsibilities as a data controller. The EDPB guidance suggests that ICANN, as a controller with stable establishments within the EU, might be required to comply with GDPR. My understanding is that this might be applicable even if processing activities (including registrar/reseller collection of data from RNH) take place outside of the EU. This might be helpful to the EPDP Team in determining whether or not the differentiation of practices for RNH based on their geographic location is legally feasible, or necessary.