**Feedback due on:**

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| **Recommendation / Purpose #** | **Due Date** |
| Recommendation #5 | Thursday, 7 February |
| Recommendation #10 | Thursday, 7 February |
| Recommendation #11 | Revised language to be circulated |
| Recommendation #12 | Thursday, 7 February |
| Recommendation #13 | Wednesday 6 February |
| Geographic Differentiation | Wednesday 6 February |
| ICANN Org Question Assessment | Wednesday, 30 January (see <https://mm.icann.org/pipermail/gnso-epdp-team/2019-January/001321.html>) |
| Proposed path for additional topics flagged | Thursday, 7 February  <https://mm.icann.org/pipermail/gnso-epdp-team/2019-February/001514.html> |
| Proposed revised registration data definition | Thursday, 7 February  <https://mm.icann.org/pipermail/gnso-epdp-team/2019-February/001512.html> |
| Consensus call – package 1 | Wednesday, 6 February  <https://mm.icann.org/pipermail/gnso-epdp-team/2019-February/001436.html> |
| Consensus call – package 2 | Thursday, 7 February  <https://mm.icann.org/pipermail/gnso-epdp-team/2019-February/001471.html> |

**Public Comment Review Status 6 February 2019**

| **Purpose / Recommendation #** | **To be reviewed** | **Completed** | **Notes** | **Proposed Language** | **Deadline for Providing Feedback** |
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| Recommendation #10 – Email communication | **√** |  | Updated language circulated to the list by Kurt | 1) The EPDP Team recommends that the Registrar MUST provide an email address or a web form to facilitate email communication with the relevant contact, but MUST NOT identify the contact email address or the contact itself.    2) The EPDP Team recommends Registrars MUST maintain Log Files, which shall not contain any Personal Information, and which shall contain confirmation that a relay of the communication between the requestor and the Registered Name Holder has occurred, not including the origin, recipient, or content of the message. Such records will be available to ICANN for compliance purposes, upon request. Nothing in this recommendation should be construed to prevent the registrar from taking reasonable and appropriate action to prevent the abuse of the registrar contact process.    Note: in relation to 1), this matches the requirements in Section 2.5.1 of Appendix A to the Temporary Specification    Note: The EPDP notes operational difficulties having to do with contacting registered name holders through webforms (where there is no confirmation that the message sent was received) and pseudonymized email addresses. Therefore, the registrar cannot be reasonably expected to confirm, or attempt to confirm by any means, the receipt of any such relayed communication. It is recommended the GNSO Council initiates work to develop a reliable, safe ways of contacting registrants in cases where their email cannot be displayed. | **Thursday, 7 February** |
| Implementation Transition Period | **√** |  | Principle agreement. Language to be reviewed by EPDP Team and confirmed by CPH. | Under discussion |  |
| Recommendation #5 - Data elements to be transferred from Registrars to Registries | **√** |  | Updated language circulated to the mailing list by Kurt | EPDP Team considerations and deliberations in addressing the charter questions:   * For each of the Purposes for Processing Registration Data (above), the EPDP Team has identified where and which data elements are required to be transferred from the registrar to registry for the “Purposes” identified in response to charter question (a)) as well as the identified corresponding lawful basis. As an illustration, please see the data elements workbooks in Annex D of this report for further details. Those processing activities identified as having as a lawful basis were considered by the EPDP Team. * As part of this analysis, the EPDP Team has identified a set of data elements that are required to be transferred from the registrar to the registry in order to fulfill the Purposes for Processing Registration Data. This set of data elements constitutes an “aggregate minimum data set.” This is an aggregate minimum data set of all identified Purposes that registrars will be required to transfer to registries. This aggregate minimum data set also includes those data elements that MAY NOT be transferred from the registrar to the registry, where such a registry does not require such a transfer (with due regard to that registry’s terms, conditions, and policies).   **Recommendation 5 - Data elements to be transferred from Registrars to Registries**  The EPDP Team recommends that the specifically-identified data elements under “[t]ransmission of registration data from Registrar to Registry”, as illustrated in the aggregate minimum data set, must be transferred from registrar to registry provided an appropriate legal basis exists and data processing agreement is in place. In the aggregate, these data elements are: | Thursday, 7 February |
| Recommendation #11 - Data retention | **√** |  | Updated language to be circulated |  |  |
| Recommendation #12 - Reasonable access | **√** |  | Revised language sent to the list by Kurt | **Recommendation 12 – Reasonable Access (Updated Language for Consideration)**  The EPDP Team recommends that the current requirements in Sections 4.1 and 4.2 of Appendix A to the Temporary Specification in relation to access to non-public registration data remain in place, recognizing that work in phase 2 on a system for Standardized Access to Non-Public Registration Data may further complement, revise, or supersede these requirements.  The EPDP Team recommends that the new policy will refer to “Reasonable Requests for Lawful Disclosure of Non-Public Registration Data” or “Reasonable Requests for Lawful Disclosure”, instead of ‘Reasonable Access’ .  The EPDP Team recommends that Registrar and Registry Operator must process and respond to Reasonable Requests for Lawful Disclosure. A Reasonable Request for Lawful Disclosure must follow the format required by the Registrar or Registry Operator and provide the required information, which are to be detailed during the implementation phase (see below). Delivery of a properly-formed Reasonable Request for Lawful Disclosure to a Registrar or Registry Operator does NOT require automatic disclosure of information. Registrars and Registry Operators will consider each request on its merits, including the asserted GDPR legal bases.  The EPDP Team recommends that Registrars and Registry Operators must publish, in a publicly accessible section of their web-site, the mechanism and process for submitting Reasonable Requests for Lawful Disclosure. The mechanism and process should include information on the required format and content of requests, means of providing a response, and the anticipated timeline for responses.  The EPDP Team recommends that criteria for a “Reasonable Request for Lawful Disclosure” and the requirements for acknowledging receipt of a request and response to such request will be defined as part of the implementation of these policy recommendations but will include at a minimum:   * Minimum Information Required for Reasonable Requests for Lawful Disclosure:   + identification of and information about the requestor (including Power of Attorney statements, where applicable and relevant);   + Information about the legal rights of the requestor and specific rationale and/or justification for the request, (e.g. Why is it necessary for the requestor to ask for this data?);   + Affirmation that the request is being made in good faith;   + A list of data elements requested by the requestor and why this data is narrowly tailored to the need;   + Agreement to process lawfully any data received in response to the request. * Timeline & Criteria for Registrar and Registry Operator Responses:   + response time for acknowledging receipt of a Reasonable Request for Lawful Disclosure. (To inform the implementation discussion, the EPDP Team considered that one possible response time could be, “without unreasonable delay, but ordinarily not more than 2 business days from receipt,” noting that a separate timeline and criteria might be considered for ‘urgent’ Reasonable Disclosure Requests if an effective distinction can be made.)   + requirements for what information responses should include (for example, auto-acknowledgement of requests and rationale for rejection of request) e.g.: Responses where disclosure of data (in whole or in part) has been denied should include rationale sufficient for the requestor to understand the reasons for the decision, including for example analysis and explanation of how the balancing test was applied (if applicable).   + logging of requests;   + a timeline for processing and responding to the disclosure requests not longer than the Art. 12 GDPR timeframe for providing information to the data subject.   The EPDP Team recommends that work on defining these criteria commences as soon as possible. | **Thursday, 7 February** |
| Geographic Basis | **√** |  | Revised recommendation language sent to the list by Kristina Rosette | The EPDP Team considered the public comment and developed the following thoughts in its deliberations in addressing the charter questions:   * The EPDP Team discussed this extensively (as documented in the Initial Report) as well as in the context of the review on the public comments received on the Initial Report. In relation to part of charter question h1, the EPDP Team agrees that contracted parties should be (and are) permitted to differentiate between registrants on a geographic basis; * However, the EPDP Team members have divergent views on whether differentiation on a geographic basis should be required. * Recognizing that ICANN is a Data Controller in many scenarios and that ICANN may be considered “established” in Europe (within the meaning of the GDPR), the EPDP Team discussed whether those factors would have an effect upon the discussion and determining GDPR-compliant outcomes. It became clear that legal guidance in relation to the applicability of GDPR in the context of ICANN having an ‘establishment’ in Europe could further inform requirements. * The EPDP Team also discussed the possibility of developing a set of rules for guiding the making of geographical distinctions in an GDPR-compliant manner (akin to the EWG hypothesized “rules engine”). The Team agreed that creating this set of rules was a complex task (just as it would be for individual registrars) and agreed such development could not occur within the remit of this Phase I EPDP. Such a development would also be dependent on the response to the aforementioned legal guidance.   **EPDP Team Recommendation (a new recommendation as there was none in the Initial Report)**  The EPDP Team recommends that the existing requirements of §§ 2.1 and 3 of Appendix A to the  Temporary Specification remain in place.  For the avoidance of doubt, the EPDP Team recommends that Registrars and Registry Operators are permitted to differentiate between registrants on a geographic basis, but are not obligated to do so. Based on the legal guidance that is provided on this topic, the EPDP Team may reconsider this recommendation in phase 2 of its work. | **Wednesday, 6 Feb** |
| Recommendation #13 - Controller Agreement | **√** |  |  | The EPDP Team recommends that ICANN Org develop and implement any required data protection arrangements, as appropriate, with the Contracted Parties. In addition to the legally required components of such agreement, the agreement shall clearly specify the responsibilities of the respective parties for the processing activities as described therein. Indemnification clauses shall ensure that the risk for certain data processing is borne by either one or multiple parties that determine the purpose and means of the processing. Due consideration should be given to the analysis carried out by the EPDP Team ("Processors, Controllers, Co-Controllers and Joint Controllers," above in this Final Report). | **Wednesday, 6 Feb** |
| General Comments |  | **√** |  |  |  |
| Recommendation #14 - Responsible parties |  | **√** |  | During Phase 1 of its work, the EPDP Team documented the data processing activities and responsible parties associated with gTLD registration data. The EPDP Team, accordingly, recommends the inclusion of the data processing activities and responsible parties, outlined below, to be confirmed and documented in the relevant data processing agreements, noting, however, this Recommendation may be affected by the finalization of the necessary agreements that would confirm and define the roles and responsibilities. |  |
| Recommendation #1 –Purposes for collecting |  | **√** |  | * The EPDP Team considered an additional purpose for processing registration data to address the needs and benefits provided by DNS security and stability research by ICANN Org through investigation, research and publication of reports on threats to the operational stability, reliability, security, global interoperability, resilience, and openness of the DNS.   In doing so, the EPDP Team considered:   * input provided by ICANN Org on the current use of data by ICANN’s Office of the Chief Technology Officer (OCTO) (see <https://community.icann.org/x/ahppBQ)>, and * relevant GDPR provisions that allow the use of personal data to carry out research, provided that other GDPR requirements are met.   In its input, OCTO stated it “does not require personal data in domain name registration data for its work. For example, OCTO’s Domain Abuse Activity Reporting (DAAR) project <https://www.icann.org/octo-ssr/daar> uses only the registrar and nameserver information.”  The discussion led to the preliminary conclusion that it was clear that OCTO does not at this time require the use of personal data in its work.  However, questions remained as to whether OCTO may require the use of pseudonymized data in the future in order to carry out its work. If this is the case, clarification may be required as to:   * how GDPR provisions would apply to ICANN Org given its multiple roles as data controller and processor and also the fact that ICANN Org currently does not collect the data; and * whether ICANN Org could qualify for processing pseudonymized data for research purposes under some existing purpose for processing data listed above in this report.   Therefore, the EPDP Team recognized that additional consideration can be given to this topic once the questions above regarding the need for pseudonymized data and legal interpretation are answered. As a result, the EPDP Team is putting forward the following recommendation, recognizing that legal guidance received in the interim could make it no longer relevant.  **Recommendation NEW – Research Purpose for Processing Registration Data**  The EPDP Team commits to considering in Phase 2 of its work whether additional purposes should be considered to facilitate ICANN’s Office of the Chief Technology Officer (OCTO) to carry out its mission (see <https://www.icann.org/octo>). This consideration should be informed by legal guidance on if/how provisions in the GDPR concerning research apply to ICANN Org and the expression for the need of such pseudonymized data by ICANN. |  |
| Recommendation #22 - Impact on other policies |  | **√** | To be revisited at the end of the process – add TDRP |  |  |
| Recommendation #6 - Escrow Providers |  | **√** | Public comment review completed, small team to review data elements workbooks |  |  |
| Recommendation #7 – Contractual Compliance |  | **√** |  | 1. The EPDP Team recommends that updates are made to the contractual requirements **concerning the registration data elements** 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 **listed hereunder (for illustrative purposes, please see** the 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 in 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 that the following data elements be transferred from registries and registrars to ICANN Compliance\*     \*To clarify, the data elements listed here are the aggregate of data elements that ICANN Compliance may request. As noted in the [Summary of ICANN Organization’s Contractual Compliance Team Data Processing Activities](https://community.icann.org/download/attachments/90774122/Summary-Contractual-Compliance-Data-Processing-Activities.pdf?version=1&modificationDate=1542678827000&api=v2) “If the Contractual Compliance Team is unable to validate the issue(s) outlined in a complaint because the publicly available WHOIS data is redacted/masked, it will request the redacted/masked registration data directly from the contracted party (or its representative). In these instances, the Contractual Compliance Team will only request the redacted/masked data elements that are needed to validate the issue(s) outlined in the complaint” |  |
| Recommendation #4 - Data elements to be collected by Registrars (incl. Question #2) |  | **√** |  | The EPDP Team recommends that the data elements listed below (as illustrated in the data elements analysis in Annex D) are required to be collected by registrars. In the aggregate, this means that the following data elements are to be collected, where some data elements are automatically generated and, as indicated below, in some cases it is optional for the registered name holder to provide those data elements:  [[[Include data elements table, including optional and automatically generated fields]]]  For further details, see complete data elements matrix.  For the purpose of the Technical contact, which is optional for the Registered Name Holder to complete (and if the Registrar provides this option), Registrars are to advise the Registered Name Holder at the time of registration that the Registered Name Holder is free to (1) designate the same person as the registrant (or its representative) as the technical contact; or (2) provide contact information which does not directly identify the technical contact person concerned.    **Note** (not part of the policy recommendation):  In its most recent deliberations, the EPDP Team:   * decided that it would be optional for the registered name holder to provide: technical contact name, email, and phone number * did not reach agreement on whether it would be optional or required for the registrar to offer the ability to the Registered Name Holder to provide these data elements,   The following groups expressed support for requiring registrars to provide the option for the RNH to provide tech contact data: IPC, BC, ALAC, SSAC, and GAC. The following groups expressed support for leaving it optional for registrars to provide the option for the RNH to provide tech contact data: RrSG, RySG and NCSG). |  |
| Purpose 1 - Establish the rights of a Registered Name Holder |  | **√** |  | In accordance with the relevant registry agreements and registrar accreditation agreements, activate a registered name and allocate it to the Registered Name Holder.  Subject to the Registry and Registrar Terms, Conditions and Policies and ICANN Consensus Policies:  (i) Establish the rights of a Registered Name Holder in a Registered Name; and  (ii) Ensure that a Registered Name Holder may exercise its right in the use, maintenance and disposition of the Registered Name. |  |
| Recommendation #9 – Organization field |  | **√** |  | **Proposed Recommendation #9**  The EPDP Team recommends that:   * The Organization field will be published if that publication is acknowledged or confirmed by the registrant via a process that can be determined by each registrar. If the registered name holder does not confirm the publication, the Organization field can be redacted or the field contents deleted at the option of the registrar. * The implementation will have a phase-in period to allow registrars the time to deal with existing registrations and develop procedures. * In the meantime, registrars will be permitted to redact the Organization Field.   **Implementation advice:** the implementation review team should consider the following implementation model discussed by the EPDP Team:  For existing registrations, the first step will be to confirm the correctness / accuracy of the existing Organization field data.  For the period between the adoption of EPDP policy recommendations and some future “date certain” to be determined by the implementation review:  1)    Registrars will redact the Organization field  2)    Registrars will contact the registered name holders that have entered data in the Organization field and request review and confirmation that the data is correct.  a.    If the registered name holder confirms or corrects the data the data will remain in the Organization field.  b.    If the registrant declines, or does not respond to the query, the Registrar may redact the Organization field, or delete the field contents. If necessary, the registration will be re-assigned to the Registered Name Holder.  3)    If Registrar chooses to publish the Registrant Organization field, it will notify these registered name holders that of the “date certain,” the Organization field will be treated as non-personal data and be published, for those Registered Names Holders who have confirmed the data and agreed to publication.  For new registrations, beginning with the “date certain”:  1) New registrations will present some disclosure, disclaimer or confirmation when data is entered in the Organization field. Registrars are free to develop their own process (e.g., opt-in, pop-up advisory or question, locked/grayed out field).  2)    If the registered name holder confirms the data and agrees to publication:  a.     the data in the Organization field will be published,  b.     The Organization will be listed as the Registered Name Holder.  c.     The name of the registered name holder (a natural person) will be listed as the point of contact at the Registrant Organization. |  |
| Purpose 2 - Maintaining SSR through enabling of lawful access |  | **√** |  |  |  |
| Purpose 3 - Enable communication with RNH |  | **√** |  |  |  |
| Purpose 4 - Safeguarding RNH's Registration Data |  | **√** |  |  |  |
| Purpose 5 - Handling Contractual Compliance |  | **√** |  |  |  |
| Purpose 6 - Resolution of DRPs |  | **√** |  |  |  |
| Purpose 7 - gTLD registration policy eligibility criteria |  | **√** |  |  |  |
| Recommendation #2 - Commitment to consider a system for Standardized Access to non-public Registration Data |  | **√** |  |  |  |
| Recommendation #3 - Requirements related to accuracy |  | **√** |  |  |  |
| Recommendation #8 – Redaction |  | **√** | Note, could be reconsidered based on input provided by legal counsel. |  |  |
| Recommendation #15 - URS / UDRP |  | **√** |  |  |  |
| Recommendation #16 - Instructions for RPM PDP WG |  | **√** |  |  |  |
| Recommendation #17 - Input from RPM PDP WG to inform subsequent access discussion |  | **√** | Eliminate Recommendation, turn into action item |  |  |
| Recommendation #18 - Data processing agreements with dispute resolution providers (incl. Question #4) |  | **√** |  |  |  |
| Recommendation #19 - Transfer Policy |  | **√** |  |  |  |
| Recommendation #20 - Input to Transfer Policy review (incl. Question #5) |  | **√** |  |  |  |
| Recommendation #21 - Data processing agreements with non-Contracted Party entities involved in registration data processing |  | **√** |  |  |  |