

ICANN
COMMUNITY FORUM

64

KOBE

9–14 March 2019



EPDP Team Meeting

Day 1



ICANN64, Kobe
9 March 2019

Welcome & Introductions

Agenda item #1



Welcome & Introductions

- ⦿ Roll Call & Introduction of any new members / alternates
- ⦿ Update on Council deliberations on phase 1 and instructions in relation to phase 2
 - Adoption of Final Report and all recs during 4 March meeting
 - [Public comment](#) opened prior to Board consideration of recommendations (deadline for input: 17 April 2019)
 - Council considerations for phase 2
- ⦿ Outline of Agenda (see next slide) and Objectives for the week:
 - General understanding of scope, interdependencies, dependencies and resource needs for phase 2
 - Develop and agree on general approach and timeline for phase 2

Agenda Overview – Day 1

Timing	Topic
10.45 – 11.00	Arrival at the Meeting Room
11.00 – 11.30	Welcome / Introductions <ul style="list-style-type: none">• Update on Council deliberations on phase 1 and instructions in relation to phase 2• Outline of Agenda and Objectives for the week
11.30 – 12.15	Tour de Table – commitments, objectives and expectations for phase 2 <ul style="list-style-type: none">• A representative of each group will share the group’s commitments, objectives and expectations for phase 2
12.15 – 13.30	Lunch Break
13.30 – 14.15	Overview of topics included in phase 2 <ol style="list-style-type: none">1) System for Standardized Access to Non-Public Registration Data,2) Annex - Important Issues for Community Consideration a3) Issues deferred from EPDP Phase I
14.15 – 15.30	Brainstorming exercise
15.30 – 16.30	Plenary Session <ul style="list-style-type: none">• Aim to reach preliminary agreement on possible approach, timing, resources and dependencies for each strand of work• Aim to reach preliminary agreement on the working methods for phase 2 (# of meetings, duration, etc.)• Aim to reach preliminary agreement on a possible target date for delivery of the Initial Report, assuming alignment with Council expectations as well as resources identified.
16.30 – 17.00	Implementation Status Update (GDD)
17.00 – 18.30	Social Gathering

Agenda Overview – Day 2, 3 and 4

Day 2—Sunday 10 March 2019

Timing	Topic
17.00 – 18.30	Engagement Session with the Technical Study Group on Access to Non-Public Registration Data <ul style="list-style-type: none">• Opportunity to learn more about the scope, status and next steps of the TSG and how it intersects with the EPDP Team’s phase 2 deliberations

Day 3—Wednesday 13 March 2019

Timing	Topic
10.30 – 12.00	Phase 1 implementation brainstorming session

Day 4—Thursday 14 March 2019

Timing	Topic
8.30 – 10.15	Wrap up session <ul style="list-style-type: none">• Review of draft work plan and approach coming out of Saturday’s session• Consider further input that may have been gathered throughout the week, including Council input from weekend sessions as well as engagement session with TSG• Confirm next steps and next meeting

Tour de Table

Agenda Item #2



Objective

- ⦿ Commitments, objectives and expectations for phase 2

A representative of each group (RySG, RrSG, ISPCP, BC, IPC, NCSG, GAC, SSAC, ALAC) will share the group's commitments, objectives and expectations for phase 2

Lunch Break

12.15 – 13.30

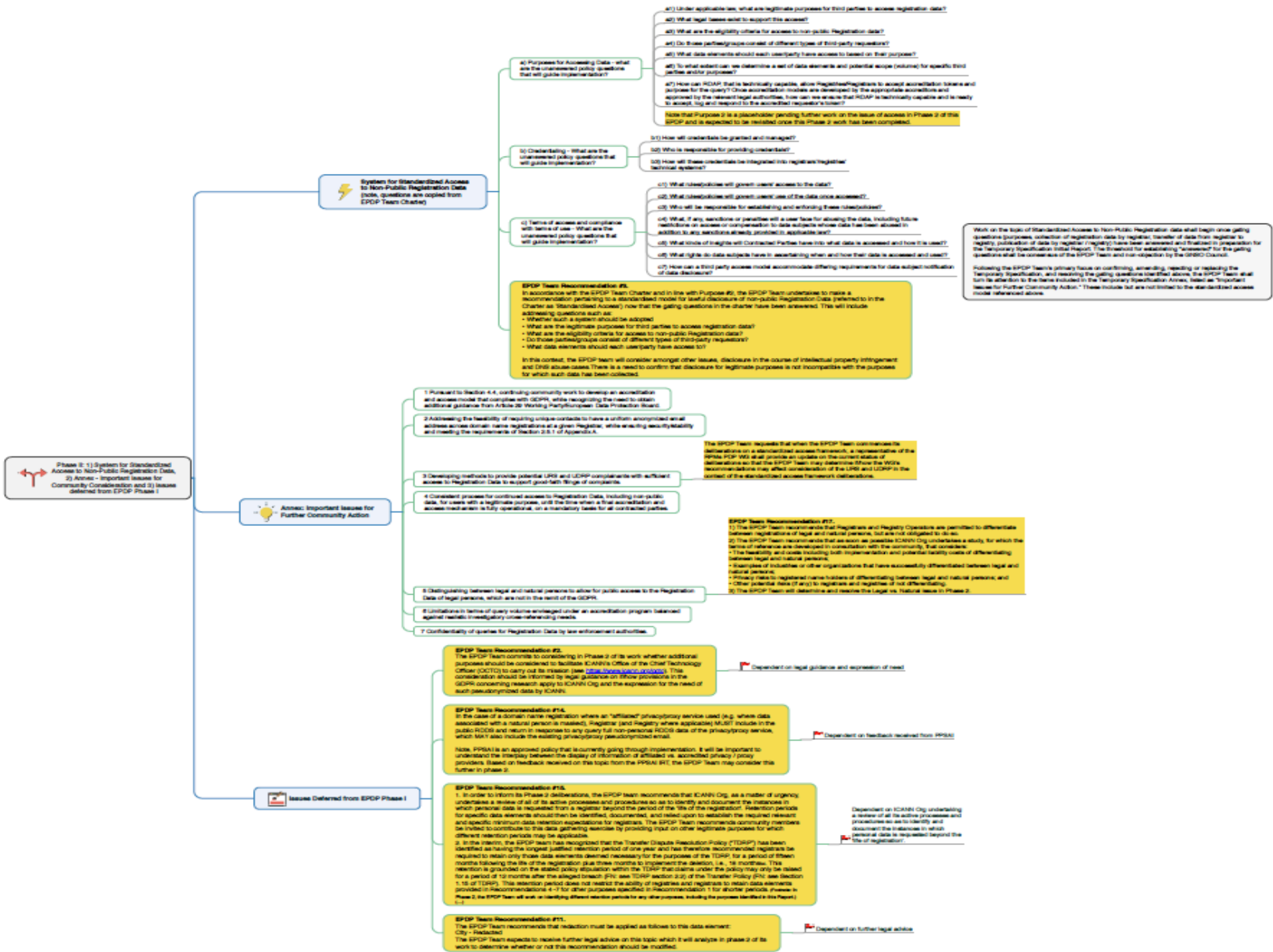
Overview of topics included in phase 2

Agenda item #3

Phase 2 Scope

- ⦿ Items identified in EPDP Team Charter:
 - System for Standardized Access to Non-Public Registration Data
 - Annex to the Temporary Specification (Important Issues for Further Community Action)
- ⦿ Items deferred from EPDP Team phase 1, either requiring further consideration or dependent on input from others

Mind map on next slide reflects charter topics / questions (white) and phase 1 items (yellow)



Work on the topic of Standardized Access to Non-Public Registration Data shall begin once gating questions purposes, collection of registration data by registrars, transfer of data from registrar to registrar, publication of data by registrar (registrars) have been assessed and finalized in preparation for the Temporary Specification Final Report. The threshold for establishing "necessity" for the gating questions shall be consensus of the EPDP Team and non-vetoed by the ICANN Council.

Following the EPDP Team's primary focus on confirming, amending, extending or rejecting the Temporary Specification, and resolving the gating questions identified above, the EPDP Team will turn its attention to the items included in the Temporary Specification Annex, listed as "Important Issues for Further Community Action." These include but are not limited to the standardized access model referenced above.

The EPDP Team requests that when the EPDP Team continues its deliberations on a standardized access framework, a representative of the ICANN PDP WG shall provide an update on the current status of deliberations so that the EPDP Team may determine if/how the WG's recommendations may affect consideration of the LRD and LDRP in the context of the standardized access framework's deliberations.

EPDP Team Recommendation #7.
 1) The EPDP Team recommends that Registrars and Registry Operators are permitted to differentiate between registrations of legal and natural persons, but are not obligated to do so.
 2) The EPDP Team recommends that as soon as possible ICANN Org undertake a study, for which the terms of reference are developed in consultation with the community, that considers:
 - The feasibility and costs including both implementation and potential liability costs of differentiating between legal and natural persons.
 - Examples of industries or other organizations that have successfully differentiated between legal and natural persons.
 - Privacy risks to registrars (name holders of differentiating between legal and natural persons, and other potential risks of and to registrars and registries if not differentiating.
 3) The EPDP Team will determine and resolve the Legal vs. Natural Issue in Phase 2.

Dependent on legal guidance and expression of need

Dependent on feedback received from PPSAI

Dependent on ICANN Org undertaking a review of all its active processes and procedures in order to identify and document the instances in which personal data is requested beyond the file of registration.

Dependent on further legal advice

Phase 1: System for Standardized Access to Non-Public Registration Data.
 2) Annex - important issues for Community Consideration and 3) Issues deferred from EPDP Phase 1

Annex: Important Issues for Further Community Action

Issues Deferred from EPDP Phase 1

- 1) Proceed to Section 4.4, continuing community work to develop an accreditation and access model that complies with GDPR, while recognizing the need to obtain additional guidance from Article 29 Working Party/ European Data Protection Board.
- 2) Addressing the feasibility of requiring entities outside to have a uniform accredited email address across domain name registrations at a given Registrar, while meeting security stability and meeting the requirements of Section 2.5.1 of Appendix A.
- 3) Developing methods to provide potential LRD and LDRP compliance with sufficient access to Registration Data to support good-faith filings of complaints.
- 4) Consistent process for continued access to Registration Data, including non-public data, for users with a legitimate purpose, until the time when a final accreditation and access mechanism is fully operational, on a non-erased basis for all contracted parties.
- 5) Distinguishing between legal and natural persons to allow for public access to the Registration Data of legal persons, which are not in the remit of the GDPR.
- 6) Limitations in terms of query volume envisaged under an accreditation program balanced against needs investigatory case-referencing needs.
- 7) Confidentiality of queries for Registration Data by law enforcement authorities.

EPDP Team Recommendation #2.
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 (CTO) to carry out its mission (see <http://www.icann.org/00000000>). This consideration should be informed by legal guidance on those provisions in the GDPR concerning research apply to ICANN Org and the expression for the need of such pseudonymized data by ICANN.

EPDP Team Recommendation #4.
In the case of a domain name registration where an "affiliated" privacy/proxy service used (e.g. where data associated with a natural person is masked), Registrar (and Registry where applicable) MUST include in the public RDDS and return in response to any query full non-personal RDDS data of the privacy/proxy service, which MAY also include the existing privacy/proxy pseudonymized email.

Note: PPSAI is an approved policy that is currently going through implementation. It will be important to understand the impact between the display of information of affiliated vs. accredited privacy / proxy providers. Based on feedback received on the topic from the PPSAI IRT, the EPDP Team may consider the further in phase 2.

EPDP Team Recommendation #10.
 1. In order to inform its Phase 2 deliberations, the EPDP Team recommends that ICANN Org, as a matter of urgency undertake a review of all of its active processes and procedures so as to identify and document the instances in which personal data is requested from a registrar beyond the period of the file of registration. Retention periods for specific data elements should then be identified, documented, and relied upon to establish the required relevant and specific minimum data retention expectations for registrars. The EPDP Team recommends community members be invited to contribute to this data gathering exercise by providing input on other legitimate purposes for which different retention periods may be applicable.
 2. In the interim, the EPDP Team has recognized that the Transfer Dispute Resolution Policy ("TDRP") has been identified as having the longest justified retention period of one year and has therefore recommended registrars be required to retain only those data elements deemed necessary for the purposes of the TDRP, for a period of three months following the file of the registration plus three months to implement the decision, "if" in-house. This retention is grounded on the static policy stipulation within the TDRP that claims under the policy may only be raised for a period of 12 months after the alleged breach (PNC see TDRP section 3.2) of the Transfer Policy (PNC see section 1.16 of TDRP). This retention period does not warrant the type of legal and regulatory to retain data elements provided in Recommendations 4-7 for other purposes specified in Recommendation 1 for shorter periods (Phase 2). Phase 2, the EPDP Team will work on identifying different retention periods for any other purposes, including the process identified in the Report.

EPDP Team Recommendation #11.
The EPDP Team recommends that retention that is applied as follows to this data element:
 City - Redacted
 The EPDP Team requests to receive further legal advice on this topic which it will analyze in phase 2 of its work to determine whether or not this recommendation should be modified.

System for Standardized Access to Non-Public Registration Data

- ⦿ Number of questions identified in the EPDP Team Charter concerning purposes for accessing data, credentialing and terms of access / compliance with terms of use.

- ⦿ See also Phase 1 Rec #3 questions:
 - Whether such a system should be adopted
 - What are the legitimate purposes for third parties to access registration data?
 - What are the eligibility criteria for access to non-public Registration data?
 - Do those parties/groups consist of different types of third-party requestors?
 - What data elements should each user/party have access to?

- ⦿ Intersection with work of ICANN Org and TSG on UAM

Temp Spec Annex – Important Issues

- ⦿ Continuing community work to develop an accreditation and access model that complies with GDPR, recognizing the need to obtain additional guidance from EDPB
- ⦿ Feasibility of requiring unique contacts to have a uniform anonymized email address across domain name registrations, while ensuring security / stability
- ⦿ Develop methods to provide potential URS and UDRP complainants with sufficient access to support good faith filing of complaints (see also phase 1 request to get update from RPM WG)
- ⦿ Consistent process for continued access, including non-public data, for users with a legitimate purpose, until a final mechanism is fully operational, on a mandatory basis for all contracted parties
- ⦿ Distinguishing between legal and natural persons (see also rec #17)
- ⦿ Limitations in terms of query volume
- ⦿ Confidentiality of queries by LE authorities

Items Deferred from Phase 1

- ⦿ Recommendation #2 – Additional Purpose for OCTO Research
- ⦿ Recommendation #14 – Privacy / Proxy Registrations
- ⦿ Recommendation #15 – Data Retention
- ⦿ Recommendation #11 – City Redaction
- ⦿ Outstanding legal questions on ‘legal establishment’ and ‘thick WHOIS’

Note, all these items are dependent on external input to be provided, either from legal counsel, ICANN Org or another group (i.e. PPSAI IRT)

Brainstorming Exercise

Agenda Item #4

Objectives

At the end of this exercise, we wish to:

- ⦿ Complete the terms of reference or the list all of the issues to be addressed in Phase 2
- ⦿ Prioritize the issues or create an order for discussion
- ⦿ Identify interdependencies among the issues (if any) and determine the effect of those on the prioritization
- ⦿ Develop a proposed work schedule or meeting cadence
- ⦿ Identify resource requirements

Rules

- ⦿ 3 work stations around the room (working methods, dependencies / interactions, resources)
- ⦿ For each topic a number of questions have been identified:
 - Use post-its to write your response
 - If you like someone else's response, add a '+1'
 - There is obvious linkage between the three topics so no need to be too rigid about it
- ⦿ Count off to 3 so that groups are evenly divided – 15 minutes each for each station, when the timer goes off, please move to next station. At then end, there will be 15 additional minutes for each member to 'select' their 3 favorite ideas / suggestions for each topic using the round stickers that will be distributed.
- ⦿ Rapporteur from each work station will report back to plenary – providing a high level summary of the main ideas, suggestions as well as the level of support obtained.

Work Station Overview – Working Methods

- ⦿ How many hours a week are you willing/able to dedicate to phase 2? Are you planning to participate in the IRT and as such does that affect your availability? For example, I am willing to spend 4 hours per week on EPDP Team Phase 2 conference calls plus required prep time.
- ⦿ How much time is necessary between meetings to assess results and prepare for the next meeting on the same topic?
- ⦿ What working methods should the EPDP Team consider / change? For example, should more use be made of small teams or face-to-face meetings?
- ⦿ What would be the best way to tackle the different topics? In parallel, consecutively? Are there any topics that should be prioritized over others?
- ⦿ Noting that the development of the Phase 1 Initial Report took approx. 100+ hours of conference call time plus 50+ hours of face-to-face meeting time, what do you think will be a realistic timeline for the publication of the Phase 2 Initial Report?

Work Station Overview – Dependencies / Interactions

- ⦿ Identify for each topic what dependencies and/or interactions are in play? In relation to dependencies, please identify how you expect this to affect the timeline for consideration of a topic. For example, does or should the work of the TSG impact the EPDP Team's consideration of a system for standardized access?
- ⦿ How / when should legal memos received from legal counsel be reviewed?
- ⦿ How should the discussion be prioritized given the dependencies and interactions listed in answers to the question above?

Work Station Overview – Resources

- ⦿ What resources are needed for the EPDP Team to deliver its Initial Report for phase 2 in a reasonable timeframe? You are encouraged to develop justification or rationale for additional resources, e.g., we cannot complete the work without it or that it would represent savings, gained efficiency or some other quantifiable benefit. For example, what expertise is needed (internal or external), is F2F time outside of an ICANN meeting a requirement, what issues require legal counsel input, are external facilitators needed? (Note, any request for additional resources will need to the GNSO Council for consideration and subsequently to the ICANN Board)
- ⦿ How can we ensure a common understanding of the topics in phase 2 amongst all EPDP Team members? What briefings may be required?

Main themes / common view points

- ⊙ Update from work station rapporteurs:
 - Working methods
 - Dependencies / Interactions
 - Resources

Plenary Session

Agenda Item #5

Preliminary Agreements

- Aim to reach preliminary agreement on possible approach, timing, resources and dependencies for each strand of work
- Aim to reach preliminary agreement on the working methods for phase 2 (# of meetings, duration, etc.)
- Aim to reach preliminary agreement on a possible target date for delivery of the Initial Report, assuming alignment with Council expectations as well as resources identified.

Implementation Status Update

Agenda Item #6

Social Gathering