

EPDP

Final Report – Phase 1

ALAC Position

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Final Report of the Temporary Specification for gTLD Registration Data Expedited PDP

But it is not!

It is the Final Report of the PHASE 1 of the EPDP.

Phase 2

- Was supposed to be: a proposed model of a system for providing accredited access to non-public Registration Data
- That is still there, but many other things have been postponed until Phase 2

Phase 1

- Temporary Specification effective 29 May 2018.
- Expires 29 May 2019 and cannot be renewed.
- Need to replace it with a formal policy (developed by a PDP, Recommendations approved by the GNSO with a super majority, approved by the Board)
- Current timeline will allow a new Policy to be approved by deadline. But not implemented!

Tricky part!

- If we develop a new policy and get it approved by the Board, what happens between the time the Temp Spec expires and new Policy is implemented.
- Had not really considered this.
- Answer: Policy will say that until it is implemented, if a Ry/Rr follows the rules in the EXPIRED Temp Spec, they will not be the subject of Compliance action.

A short history of the EPDP

- Everyone worked VERY, VERY hard!
 - Staff did an amazing job!
- We learned a lot about the GDPR
- We tackled a LOT of difficult question and issues and addressed many of them
- Lots of compromises were made
- And lots of rigidity... And lots of posturing* ...
- Many issues not crucial to meeting deadline were deferred

*Posturing: behaviour intended to to impress or mislead

To be discussed

Issues where we are not satisfied and what to do about it.
Options Include:

- agree despite not being happy
- agree but note unhappiness
- do not agree (to particular issues or the entire package)

How do we handle concern over issues in Phase 2 (of which there are a lot, and not simple ones) - does that give cause to withdraw consensus from Phase 1?

(it will be too late to withdraw retro-actively).

The Question

- Withdrawing from the consensus for part or all of Phase 1 will send a strong message about our concern.
- What will supporting it do?

TIMELINE

- ALAC Statement Due by end of FRIDAY
 - 2+ days from now

The issues

- Some minor, some major
- All in support of:
 - Maximizing access to WHOIS information for those involved with cybersecurity;
 - Maximizing stability and resiliency of the Internet;
 - Protecting and supporting individual Internet users.
 - Protecting registrants

Caveat

- Some of the issues described there have been raised with the PDP and *might* change this week.

A Teaser - Admin Fields

(we got this one fixed!)

- Currently a separate Administration name, contact.
- Being eliminated.
- But domains registered prior to current RAA may not have Registrant contact info.
- Without Admin, there is nothing!
- Does it matter?
 - Other policies
 - Escrow

Technical Contacts

- Now: Name, Organization, Mailing address, Telephone, Fax, E-mail
- Organization, Mailing address and Fax eliminated
- Name, Fax, E-mail optional
- E-mail, if present, anonymized or web form
- Optional for Registrar to even ask for Tech contacts.

Technical Contact Issues

- Tech contact used to fix things.
 - May not be there (but there will be a registrant contact (anonymized))
- New registrants may not even be given opportunity to provide one.
 - No easy way to find a registrar that offers Tech contacts – if there are any.
- Particularly relevant for large organizations and small users using web-hosting.

Organization Field

- Currently an optional field.
- Temp Spec said to publish.
- At some point, registrants will be given the chance to fill in this field (and have it publicly published) or omitting it.
- Until then, registrar *may* chose to publish or redact.
- No timeline.

Public Contact Information

- At some point registrars will allow registrant to request publication of real contact information (timing undefined)
- Only publishable by registrar, not registry

Data Retention

- 1 year based on policy requiring longest delay, the Transfer Dispute Resolution Policy (TDRP)
 - A dispute can be filed up to a year after the transfer
 - The registrar may delete the relevant data a year after the transfer
 - Worst case, data could be deleted before the TDRP is investigated.

Geographic Differentiation

- Allowing all registrars, regardless of location and where processing is done, and all registrants, regardless of location, but have data redacted.
- So, for example, a registrar in China targeting only local clients, may redact all data in support of European data protection.
- Thought this was going to be discussed under Phase 2, but apparently not.
 - Even if in Phase 2, unclear we could win this one. Contracted parties say it is too hard to determine location of client.

Thick vs Thin WHOIS

Thick: most data kept at registry (most TLDs)

Thin: most data kept at registrar (COM, NET, JOBS)

- Thick WHOIS PDP deliberated long and hard and determined that Thick was better.
- Now effectively all will be the equivalent of thin.

Registrar Transfer

- To transfer a domain from one registrar to another involved a number of checks to ensure that the request was legitimate.
- Now much weaker process (receiving registrar cannot see who original registrant was).
- Will be looked at in a future PDP (advice to GNSO: do it with great urgency!)

Lawful Access

Pending Access discussion (and after for those not accredited)

- Acknowledge request within 2 business days
- Response time: “without undue delay” and within X days (X to be determined during implementation).
- “Urgent” reasonable requests: less than X business days.
- Time previously discussed was within 3 months.

Consumer Protection, Cybercrime, DNS Abuse

- Consumer Protection mentioned 5 times in the Temp Spec.
- Cybercrime, DNS Abuse also mentioned.

In this report:

- Consumer protection and cybercrime not mentioned.
- DNS Abuse will be considered under access
- *It would be difficult to argue that that processing to prevent DNS abuse is "necessary for the performance of a contract to which the data subject is party".*

Research/Threat response by OCTO

- To be considered in Phase 2 subject to legal advice and ICANN saying it may be necessary.
- ICANN seems reluctant to do so.

Critical Issues - 1

- Geographic differentiation
- Legal/Natural Person distinction (Phase 2)
- Tech field potentially not being collected
- Organization Field
- Thick/Thin
- Transfer

Critical Issues - 2

- Lack of concern for public benefit issues
 - FAR more concern on liability to contracted parties if information is disclosed.
 - vs
 - Damage to users and the Internet if information not disclosed.

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