

EPDP ALAC COMMUNITY - BRIEF

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AGENDA

- Background
- EPDP Phase 1 Brief
- EPDP Phase 2 Brief
- SSAD
- Questions?

BACKGROUND

- ❑ European (and other) privacy legislation around for a while
- ❑ European General Data Protection Regulation (GDPR) came into force 25 May 2016 – with a 2 year delay prior to SIGNIFICANT penalties
- ❑ Temporary Specification for gTLD adopted by the board and taking effect on 25 May 2018
- ❑ ICANN community started developing a new consensus policy to replace the Temp. Spec. – EPDP for gTLD registration data – “Phase 1”
- ❑ EPDP phase II underway – Access to redacted Data and some Phase 1 clean-up

EPDP PHASE I BRIEF

- ❑ ICANN community developed recommendations for a new consensus policy for gTLD
- ❑ EPDP phase I adopted by GNSO Council March 2019
- ❑ Board Resolution passed May 15 May 2019 adopting 27 of 29 recommendations
- ❑ EPDP I recommended a new gTLD registration data policy
- ❑ EPDP I recommends adopting the Temp. Spec. as an interim policy
- ❑ Effective date of the gTLD registration Data policy: No later than 29 February, 2020

EPDP PHASE I IN BRIEF

- ❑ EPDP I defined ICANN purposes and legal bases for the processing of the data
- ❑ EPDP I defined data that must be collected, retained and displayed in public WHOIS
- ❑ EPDP I defined non public data that could be disclosed to third parties if the disclosure requirements are met
- ❑ EPDP I did NOT determine who the controllers are, and this is a crucial issue
- ❑ Recent evidence implies that the policy we developed may not be working in some cases

EPDP PHASE I — ALAC ISSUES

Over application of GDPR

- Legal vs Natural Persons (subject of a proposed study)
- Geographic differentiation
- Organization field (raised by the Board as well)
- Indications of policy not working

EPDP PHASE II IN BRIEF

- ❑ EPDP II addresses who can have access to the data
- ❑ Under what circumstances the data can be disclosed and the necessary safeguards
- ❑ Data fields to be disclosed
- ❑ Means of submitting a request
- ❑ Means of disclosure
- ❑ Considered possible use cases
- ❑ Issues deferred from phase I

SYSTEM FOR STANDARDIZED ACCESS/DISCLOSURE (SSAD)

In THEORY:

- Provides natural persons with better knowledge of how their own personal data may be disclosed
- Ensures a uniform and consistent standard and process for third parties to get personal data of registrants
- Provides predictability
- Ensures better transparency to data subjects and data protection authorities

THE ELEPHANT IN THE ROOM

- ❑ Release of data requires a decision - Whoever makes the decision bears the liability if redacted information released incorrectly
- ❑ The current default is that the contracted parties (largely registrars) make the decisions
- ❑ The SSAD was conceived as a process where ICANN (or a contractor) makes the decisions and assumes the liability
- ❑ We do not yet know if this will be considered as legal by the European Data Protection Board (EDPB)
- ❑ Unclear what percentage of requests WILL be addressable with some level of automation – only registrars possess their client information
- ❑ There WILL be a large number of requests that follow specific patterns and should be able to be automated

END USERS INTEREST

Recap of why we care:

- ❑ End Users need to trust the Internet
- ❑ Fraud, phishing, spam (a major vector for malware) all heavily rely on domain names (both those registered for this explicit purpose and legitimate domain names used via hi-jacking or hacked web sites)
- ❑ Consumer protection needs access at times
- ❑ Remediation of these problems is often time-critical

THANK YOU - QUESTIONS?

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