ATLAS III
CASE STUDY
POSITIONS FOR
THE SEVEN TRIBES

Atlas III,
Montreal

November 2-8

EPDP Group Positions

The EPDP is made up of a number of groups representing the interests of parts of the GNSO as well as the interested Advisory Committees. Specifically:

- GNSO Registries SG (RySG): 3 Members + 3 Alternates;
- GNSO Registrars SG (RrSG): 3 Members + 3 Alternates;
- GNSO Non-Commercial SG (NCSG): 6 Members + 3 Alternates
- GNSO Commercial SG:
  - Business Constituency (BC): 2 Members + 1 Alternate;
  - Intellectual Property Constituency (IPC): 2 Members + 1 Alternate;
  - Internet Service Providers & Connectivity Providers (ISPCP): 2 Members + 1 Alternate;
- ALAC: 2 members + 2 Alternates;
- SSAC: 2 members + 2 Alternates;
- GAC: 3 members + 3 Alternates

The following sections describe the positions that the various groups took at the start of the EPDP process (optionally in writing and presented during the first meeting).

You should also carefully consider as extensions of these statements, the "early input" into the EPDP provided by a number of groups - **https://community.icann.org/display/EOTSFGRD/Request+for+Early+Input+-+1+August+2018**.

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Positions: ALAC

Statement

1. The ALAC believes that the EPDP MUST succeed and will be working toward that end.
2. We have a support structure that we are organizing to ensure that what we present here is understood by our community and has their input and support.
3. The ALAC believes that individual registrants are users and we have regularly worked on their behalf (as in the PDP that we initiated to protect registrant rights when their domains expire), if registrant needs differ from those of the 4 billion Internet users who are not registrants, those latter needs take precedence. We believe that GDPR and this EPDP are such a situation.
4. Although some Internet users consult WHOIS and will not be able to do so in some cases going forward, our main concern is access for those third parties who work to ensure that the Internet is a safe and secure place for users and that means that law enforcement, cybersecurity researchers, those combatting fraud in domain names, and others who help protect users from phishing, malware, spam, fraud, DDoS attacks and such can work with minimal reduction in access to WHOIS data. All within the constraints of GDPR of course.

Early Input:
https://community.icann.org/download/attachments/90771202/ALAC%20Early%20Input.pdf?version=1&modificationDate=1535568273000&api=v2

Primary Concerns

1. Subject to applicable privacy law, those who protect the Internet and make it safer for individual end users through the reduction of spam, phishing, fraud, malware and malicious websites should have timely access to all registration data possible to facilitate their efforts.

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Positions: IPC

Statement

1. Our goals are simple, it's to participate actively, constructively and respectfully toward the definition of a policy for a global RDS system that meets the needs of the IP community in a GDPR-compliant manner.
2. We look forward, both of us, to working collaboratively and listening, learning, contributing and to find solutions to achieve the important goals and missions of this group.

Early Input

- https://community.icann.org/download/attachments/90771202/IPC%20Early%20Input%20on%20the%20Temporary%20Specification%20-%20September%204%2C%202018.pdf?version=1&modificationDate=1536144659000&api=v2

Primary Concerns

- Today, in most cases it is very difficult or impossible to identify and contact registrants who are suspected of using domain names to violate intellectual property rights.
- The IPC's objective in the EPDP is to ensure that the outcomes allow for timely disclosure of non-public domain name registration data which is compliant with data protection law. For trusted, accredited requesters, such disclosure should be automated ensuring immediate turn-around.

Positions: BC

Statement

1. Our goals are to reinforce our belief that privacy is a human right and the GDPR is progress. And that there are legitimate purposes for the data set that make it imperative for them to be available under certain circumstances to certain entities for legitimate purposes and we believe that these are compatible goals that can be resolved in this policy development.

Early Input

- https://community.icann.org/download/attachments/90771202/BC%20Early%20Input%20to%20EPDP%20on%20GDPR%20Temp%20Spec.pdf?version=1&modificationDate=1535751424000&api=v2

Primary Concerns

1. Subject to the constraints of applicable privacy laws, there must be a mechanism to access redacted registration data to address:
2. issues related to fraud or potential fraud associated with corporate web sites;
3. issues related to the protection of trademarks;
4. issues related to Internet attacks.
5. For properly accredited investigators, such access should be timely and preferably instantaneous.

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Positions: NCSG

Statement

1. The Non-Commercial Stakeholder Group (NCSG) is the only place within the ICANN ecosystem that is specifically reserved for the advancement of non-state and non-market interests. We represent more than 700 non-profit organisations and individuals who wish to advance non-commercial policy objectives at ICANN, including respect for human rights, freedom of expression, and access to knowledge. Our members include academics, civil liberties groups, religious organisations, free software groups, and ICT for development organizations.

2. Our mission is to protect and support non-commercial communication and activity online as it is enabled by the Domain Name System. Consistent with that mission, the NCSG is participating in this EPDP to ensure that the fundamental rights of natural persons during the collection, processing, and/or disclosure of their personal data as a result of gTLD domain name registration is protected by the policy that the EPDP team develops, and that this right is not overridden by third-party interests to the extent that these rights are protected by the GDPR.

Early Input
https://community.icann.org/download/attachments/90771202/NCSG%20EPDP%20Early%20input.docx?version=1&modificationDate=1535420816000&api=v2

Primary Concerns

1. Ensure full compliance with the GDPR while protecting to the greatest possible degree registrant data.
2. Minimize additional complexity and infrastructure while keeping privacy decision processes as close to the data subject as possible.

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Positions: RySG

Statement

1. The Registry Stakeholder Group's goal is to participate actively and in good faith towards a consensus policy that addresses the questions set forth in the EPDP charter.

2. The Registry Stakeholder Group believes that any consensus policy developed by the EPDP must provide a clear path for compliance with the GDPR, be commercially reasonable and implementable, take into account our differing business models and does not inhibit innovation. Thank you for this opportunity and we look forward to working with everybody on this EPDP.

Early Input

- https://community.icann.org/download/attachments/90771202/Final%20RySG%20Early%20Input%20on%20TempSpec%20with%20App.%20C.pdf?version=1&modificationDate=1536355501000&api=v2

Primary Concerns

1. In full compliance with the applicable privacy law:
2. Minimize potential liabilities, risks, implementation efforts and costs;
3. Provide access to non-public registration data to those with a legitimate and legally justified interest.
4. Protect registrant data

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Positions: RrSG

Statement

1. Not surprisingly, registrars are, you know, eager to get started. We have a lot of skin in the game, so to speak. We as contracted parties we are on the front lines of some of the issues that will be addressed by this EPDP.

2. I think that we also – we all recognize that the temporary spec is not perfect; it s a band aid or it's a crutch and but I think most importantly it is as the name implies, it is temporary and the clock is running out. And so I think we are eager to get started to find something that can take its place on a permanent basis. That is technically and operationally feasible, that gives us some degree of certainty under the law and mitigates or legal risks and addresses the consensus views of this working group and the broader community.

3. And I guess that's about it. But we are I think more than anything we are looking to lock down what we can agree on as much as possible, as quickly as possible and get us off the clock with some time to spare. I think at ICANN we are deadline-driven community and in this particular instance I think getting us right up against the expiry of the temporary spec would be probably the only failure scenario in this – of this working group, really what we ought to be doing is racing towards completing as much work as possible as quickly as we can. And I look forward to working with everyone on that.

Early Input

1. None
2. Primary Concerns
3. In full compliance with the applicable privacy law:
4. Minimize potential liabilities, risks, implementation efforts and costs;
5. Provide access to non-public registration data to those with a legitimate and legally justified interest.
6. Protect registrant data

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Positions: GAC

Statement

1. The GAC welcomes this EPDP and the invitation to participate in it. The GAC believes that this group has an important role to play in developing as part of all relevant efforts of ICANN and the community what the GAC believes should be a comprehensive model. This comprehensive model should allow access to nonpublic Whois data for authenticated users with a legitimate and proportionate purpose in a manner that is consistent with the EU's general data protection regulation and other data protection legislations elsewhere.

2. The GAC recognizes the challenge ahead for this group and welcomes discussion on the chair's proposal to maximize the efficiency and effectiveness of this team. The GAC is setting up for itself special procedures related to this EPDP to allow for timely and effective input from all concerned governmental stakeholders. The GAC nominated six representatives to this PDP, all of whom are expected to be equally engaged in the work of this group be they members of the EPDP team, or alternates. They will be supported in the work by additional government representatives, experts and advisors.

3. Regarding the substance of which this group will be called on to deliberate, among other manners, the GAC has stressed on several occasions in its 2007 Whois principles and GAC Advice or on community consultations that Whois or registration directory services help achieve many public policy interests. Whois should be maintained to the greatest extent possible while ensuring full and timely compliance with GDPR.

4. Finally, it should be noted that GAC comments on the interim compliance model and GAC Advice and the ICANN 60, ICANN 61 and ICANN 62 communiqués should be added to the resource list that was shared by Kurt earlier."

Early Input

- https://community.icann.org/download/attachments/90771202/gac-early-input-epdp-5sep18-final.pdf?version=1&modificationDate=1536347235000&api=v2

Primary Concerns

- Whois should be maintained to the greatest extent possible while ensuring full and timely compliance with GDPR.

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Positions: SSAC

Statement

1. On behalf of SSAC, we were very happy to be able to participate in this work. In SSAC we're always extremely focused on issues that we think might negatively impact security, stability and resiliency and this is no different. Our main goals in participating in this EPDP are to make sure that security and stability issues are thought of from both perspectives, both the registration data providers and those who would consume it or access it.

2. We believe very strongly that a properly implemented registration data system will enhance and continue to enable (unintelligible) law enforcement, security practitioners and other legitimate parties with legitimate interests under the GDPR to be able to continue to protect the Internet while at the same time we recognize that if too much personal information is made too widely available, you know, which is kind of how we got here in the first place, then there are different kind of security issue in that it fosters spam and malware and all sorts of abuses and we don't want the Whois or registration data system to be misused in that way.

3. So we will be sticking to our guns on the security and stability issues but we want to make sure that it's done in such a way that it can be useful for everybody.

Early Input

- https://community.icann.org/download/attachments/90771202/SSAC%20response%20EPDP.pdf?version=1&modificationDate=1535394521000&api=v2

Primary Concerns

1. To ensure that those who look out for the Internet security and stability can continue to take appropriate actions to protect the Internet subject to the constraints of GDPR.

2. To ensure that we do not accidentally develop policy that inadvertently may negatively impact the SSR of the Internet,

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