

## RECOMMENDATION #19 – Mechanism for the Evolution of SSAD

#	Comment	Contributor	EPDP Response / Action Taken
	<p>In conjunction with the implementation of these recommendations, the EPDP recommends the creation of a Mechanism for the evolution of SSAD. This Mechanism has the responsibility to provide guidance on the following topics:</p> <ul style="list-style-type: none"> <li>a) SLA matrix review;</li> <li>b) Categories of disclosure requests which should be automated;</li> <li>c) Other implementation improvements such as the identification of possible user categories and/or disclosure rationales.</li> </ul> <p>The Mechanism focuses solely on the implementation of the SSAD and must not contravene the ICANN Bylaws, the GNSO PDP and/or existing contractual provisions for the development of new requirements for Contracted Parties. The Mechanism MAY make recommendations to the GNSO Council for any policy issues that may require further policy work.</p> <p>The EPDP Team has indicated a preference to use existing processes and procedures to establish this Mechanism, if possible. Similarly, unnecessary complexity or cost should be avoided. The EPDP Team will further consider the details of the Mechanism, and would like request community input on the following:                      What existing processes / procedures, if any, can be used to meet the above responsibilities?                      If no suitable existing processes / procedures can be used, what type of mechanism should be created factoring in: o Who should guidance be provided to?</p> <ul style="list-style-type: none"> <li>• How is guidance developed / agreed to?</li> <li>• How should it be structured?</li> <li>• What information is needed to ensure the evolution of SSAD?</li> <li>• How is guidance of the Mechanism expected to be implemented?</li> </ul> <p><span style="background-color: yellow;">[INSERT GRAPHIC]</span></p>		
<b>Support Recommendation as written</b>			
1.	Support recommendation as written	IP Department, VKGP SA dba Vanksen	<p><span style="background-color: #90EE90;">Support</span>  <b>EPDP Response:</b> The EPDP Team appreciates your response.</p> <p><b>Action Taken:</b> None  <span style="background-color: yellow;">[COMPLETED]</span></p>
2.	Support recommendation as written	Javier González, ANDEMA	<p><span style="background-color: #90EE90;">Support</span>  <b>EPDP Response:</b> The EPDP Team appreciates your response.</p> <p><b>Action Taken:</b> None  <span style="background-color: yellow;">COMPLETED</span></p>

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3.	Support recommendation as written	Meriem BOURAHLA-LOUDIYI, BIOFARMA	<b>Support</b> <b>EPDP Response:</b> The EPDP Team appreciates your response.  <b>Action Taken:</b> None <b>COMPLETED</b>
4.	Support recommendation as written	Eirini Patsi, IPC member	<b>Support</b> <b>EPDP Response:</b> The EPDP Team appreciates your response.  <b>Action Taken:</b> None <b>COMPLETED</b>
5.	Support recommendation as written	Bota Oana, Nexperteam B.V.	<b>Support</b> <b>EPDP Response:</b> The EPDP Team appreciates your response.  <b>Action Taken:</b> None <b>COMPLETED</b>
6.	Support recommendation as written	Mark Wilson, BC member	<b>Support</b> <b>EPDP Response:</b> The EPDP Team appreciates your response.  <b>Action Taken:</b> None <b>COMPLETED</b>
7.	<i>What existing processes / procedures, if any, can be used to meet the above responsibilities?</i> Any Mechanism should involve the input of directly affected parts of the community, in particular the contracted parties and SSAD users including business and intellectual property interests, law enforcement, cybersecurity, and other end users.  It should be the aim of the Mechanism to seek to move as many use case-types to full automation as possible, bearing in mind the legal and operational considerations.	Alessandra Romeo, MARQUES European Association of Trade Mark Owners	<b>Support</b> <b>EPDP Response:</b> The EPDP Team appreciates your response.  <b>Action Taken:</b> None <b>COMPLETED</b>
8.	Support recommendation as written	Susan Payne, Com Laude Group	<b>Support</b> <b>EPDP Response:</b> The EPDP Team appreciates your response.  <b>Action Taken:</b> None <b>COMPLETED</b>
9.	All SSAD entities must receive detailed guidance in due time developed by ICANN consensus policy.	Council of Europe Data Protection Unit	<b>Support</b>

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			<p><b>EPDP Response:</b> The EPDP Team appreciates your response.</p> <p><b>Action Taken:</b> None <b>COMPLETED</b></p>
<b>Support Recommendation intent with wording change</b>			
10.	<p><i>What existing processes / procedures, if any, can be used to meet the above responsibilities?</i> Data information requests could be structured similar to GoDaddy's or Denic request forms for registrant information. Their forms are clear, user friendly &amp; easy to submit.</p> <p><i>What information is needed to ensure the continuous evolution of SSAD?</i> Once the system is functional, an advisory committee, made up of registries, registrars &amp; accredited users, could be set up to review if the system is working as planned &amp; to offer recommendations.</p> <p><i>How is guidance of the Mechanism expected to be implemented?</i> Information Bulletins in an "Information/update section" in the SSAD Request Portal. Emails should be sent to accredited users to indicate there is new information/guidance entered into the portal.</p>	Sylvia Sanders, Pernod Ricard	<p><b>New Idea</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b></p> <p><b>[COMPLETED / NOT COMPLETED]</b> – [Instruction of what was done.]</p>
11.	We advise that any working group controlling the evolution of the SSAD MUST include the GAC, ALAC and SSAC; further, their decisions should not be subject to reversal by the GNSO.	Domain Manager, Servier	<p><b>New Idea</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b></p> <p><b>[COMPLETED / NOT COMPLETED]</b> – [Instruction of what was done.]</p>
12.	We advise that any working group controlling the evolution of the SSAD MUST include the GAC, ALAC and SSAC; further, their decisions should not be subject to reversal by the GNSO.	Laurent Dhennequin, Comité Colbert	<p><b>New Idea</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b></p> <p><b>[COMPLETED / NOT COMPLETED]</b> – [Instruction of what was done.]</p>
13.	<p><i>If you do not support Recommendation #19, please provide proposed edits or changes and rationale here:</i> With the added input from the Belgian DPA that a centralized model is a “better, ‘common sense’ option in terms of security and for data subjects”, the EPDP should complete its work based on such a centralized model. This could eliminate the need for such a mechanism to gradually shift the SSAD toward greater centralization.</p> <p><i>What existing processes / procedures, if any, can be used to meet the above responsibilities?</i> This Mechanism, if it exists, must represent the entire ICANN community, and not only the</p>	Franck Journoud, IPC	<p><b>Concerns</b> <b>Divergence</b> <b>Support</b> <b>New Idea</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b></p> <p><b>[COMPLETED / NOT COMPLETED]</b> – [Instruction of what was done.]</p>

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	<p>GNSO. It should take into account SSAD users including law enforcement, cybersecurity, intellectual property owners and agents, and other types of end users.</p> <p>The Mechanism’s remit should be to act unidirectionally toward centralization and automation of all cases possible under the law, and the Mechanism must not be able to unwind centralization established by the EPDP without objective evidence of legal risk. It should have sufficient resources to obtain the legal clarity required to justify the centralization of more use cases over time.</p> <p>The challenge in developing such a Mechanism is that it must be able to require automation for new request types without that power crossing “the picket fence” or being considered to be policy making under the GNSO’s remit. The challenge associated with creating such a unicorn further evidences that a centralized SSAD is better.</p>		
14.	We advise that any working group controlling the evolution of the SSAD MUST include the GAC, ALAC and SSAC; further, their decisions should not be subject to reversal by the GNSO.	Roland De Meersman, Belgian Association Anti-Counterfeiting	<p><b>New Idea</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b>  <b>[COMPLETED / NOT COMPLETED]</b> –  [Instruction of what was done.]</p>
15.	The BC advises that any working group “controlling” the evolution of the SSAD MUST include the GAC, ALAC and SSAC; further, their decisions should not be subject to reversal by the GNSO.	Steve DelBianco, Business Constituency	<p><b>New Idea</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b>  <b>[COMPLETED / NOT COMPLETED]</b> –  [Instruction of what was done.]</p>
16.	We advise that any working group controlling the evolution of the SSAD MUST include the GAC, ALAC and SSAC; further, their decisions should not be subject to reversal by the GNSO.	Romain Mallet, CHANEL	<p><b>New Idea</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b>  <b>[COMPLETED / NOT COMPLETED]</b> –  [Instruction of what was done.]</p>
17.	We advise that any working group controlling the evolution of the SSAD MUST include the GAC, ALAC and SSAC; further, their decisions should not be subject to reversal by the GNSO.	Carole Tricoire, Company	<p><b>New Idea</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b>  <b>[COMPLETED / NOT COMPLETED]</b> –  [Instruction of what was done.]</p>
18.	We advise that any working group controlling the evolution of the SSAD MUST include the GAC, ALAC and SSAC; further, their decisions should not be subject to reversal by the GNSO.	David Saussinan, UNIFAB - Union des Fabricants	<p><b>New Idea</b></p> <p><b>EPDP Response:</b></p>

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	Whatever mechanism is chosen, we strongly advocate for the GAC and SSAC to be fully involved.		<b>Action Taken:</b> <b>[COMPLETED / NOT COMPLETED]</b> – [Instruction of what was done.]
19.	We advise that any working group controlling the evolution of the SSAD MUST include the GAC, ALAC and SSAC; further, their decisions should not be subject to reversal by the GNSO.	Muller, Hermès International  Alice Gensse, Hermès International  Sophie Sojfer, Hermès International  etienne VANDAMME, Hermès International  Masson, Hermès International	<b>New Idea</b> <b>EPDP Response:</b>  <b>Action Taken:</b> <b>[COMPLETED / NOT COMPLETED]</b> – [Instruction of what was done.]
20.	We advise that any working group controlling the evolution of the SSAD MUST include the GAC, ALAC and SSAC; further, their decisions should not be subject to reversal by the GNSO.	Myrtha Hurtado Rivas, Novartis	<b>New Idea</b> <b>EPDP Response:</b>  <b>Action Taken:</b> <b>[COMPLETED / NOT COMPLETED]</b> – [Instruction of what was done.]
21.	We advise that any working group controlling the evolution of the SSAD MUST include the GAC, ALAC and SSAC; further, their decisions should not be subject to reversal by the GNSO.	Stéphanie Leguay, French anticounterfeiting committee	<b>New Idea</b> <b>EPDP Response:</b>  <b>Action Taken:</b> <b>[COMPLETED / NOT COMPLETED]</b> – [Instruction of what was done.]
22.	<p>The ALAC notes the importance of introducing a methodology through which the system can improve and more cases out of experience and learning can be automated. We do not see any existing procedures that can be used to meet this responsibility and suggest forming an SSAD implementation council consisting of members from all stakeholders. The responsibility of the SSAD implementation council would be looking into the types of disclosures that out of experience are deemed automatable and recommend moving its decision making to the central gateway manager who would provide an automated response to such requests.</p> <p>To be clear, the “mechanism” that is established by the recommendation must have the authority (with the support of contracted party representatives) to have new classes of automation introduced into the SSAD without referring the matter to the GNSO Council which</p>	At-Large Advisory Committee (ALAC)	<b>New Idea</b> <b>EPDP Response:</b>  <b>Action Taken:</b> <b>[COMPLETED / NOT COMPLETED]</b> – [Instruction of what was done.]

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	only has jurisdiction over policy matters (and this present policy recommendation will already allow the creation of new classes of automated responses).		
23.	<p>The need for a mechanism that ensures the SSAD system can evolve at Internet speed is a very important concept and policy must exist to support it. It is equally important that transparency, accountability and full participation by all stakeholders be assured and as such we insist that any mechanism involved in defining how the SSAD will evolve include stakeholders outside of the GNSO, including the SSAC, GAC and ALAC.</p> <p>In addition, decisions that result from this mechanism must not be subject to a vote from the GNSO Council that does not include the Advisory Committees.</p>	Nat Kopcyk, M3AAWG- Messaging Malware and Mobile Anti- Abuse Working Group	<p><b>Concerns</b> <b>Divergence</b> <b>Support</b> <b>New Idea</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b></p> <p><b>[COMPLETED / NOT COMPLETED]</b> – [Instruction of what was done.]</p>
24.	<p>The SSAC strongly supports the concept and rationale behind recommendation 19, the creation of a mechanism for the evolution of SSAD. ICANN has two primary methodologies for creating processes, requirements, and accountability for contracted parties to achieve operational and policy goals: contracts and consensus policy. Neither of these tools is particularly well-suited to being able to adjust the requirements of an evolving SSAD ecosystem where both data requestors and data controllers will be developing capabilities, learning and maturing effective processes, and continuously seeing changes in data request types and volumes. Those are the natural elements of a brand-new system in any environment. Further, as different types of abuse or operational needs manifest over time where new legitimate uses of data may come to light, it will be important to incorporate those into the standard operations of the SSAD. This recommendation provides a realistic foundation to create a process for making such updates without having to resort to the slow and protracted processes of contract negotiations or a PDP, and asks for inputs on how this may be feasible using existing processes within ICANN as a model.</p> <p>The SSAC notes that there does not seem to be a current ICANN process that closely matches the one contemplated by this recommendation. There are some small, standing committees set up for various technical issues that may provide some guidance (e.g. IDN-related implementations, RSEP reviews) and the IRT process itself could be looked at as a basis for creating a “standing” IRT of some sort. Regardless of the chosen mechanism, the scope of the work it can do and recommendations it provides must both be narrow in their application yet enforceable under existing policy and contractual terms. Thinking about an appeals process or other accountability measures may assuage some groups’ concerns about such a mechanism being either under or over-powered depending on one’s particular issues. Finally, it should be noted that this is not a new concept, as such a mechanism was envisioned by the Expert Working Group on gTLD Directory Services in its final report. Recommendation set 4 stated that “The RDS must be designed with the ability to accommodate new users and permissible purposes that are likely to emerge over time,” and proposed a multi-stakeholder review board for this purpose. The ePDP members may wish to review this work to assist their own effort.</p>	Security and Stability Advisory Committee (SSAC)	<p><b>New Idea</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b></p> <p><b>[COMPLETED / NOT COMPLETED]</b> – [Instruction of what was done.]</p>

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25.	<p>We support a possible mechanism other than a GNSO PDP to assist in ongoing and continuous tracking and potential improvements of the SSAD over time. We provide some suggested parameters of such a mechanism below.</p> <p>This Mechanism, if it exists, must represent the entire ICANN community, and not only the GNSO. It should take into account SSAD users including law enforcement, cybersecurity, intellectual property owners and agents, and other types of end users. It should not take the form of a GNSO PDP, as this structure is likely too rigid to meet the needs that the Mechanism would be serving. The mechanism must have balanced representation from the entire ICANN community.</p> <p>The Mechanism’s remit should be primarily aimed at further centralization, automation, efficiency, and cost-effectiveness of the SSAD to adhere SSAD as closely as possible to what the law actually requires in terms of protecting personal data. The Mechanism must not be a channel for second-guessing the EPDP recommendations/Registration Data Policy, or SSAD policy without objective evidence of legal risk, financial unsustainability, or other existential matters. It should have sufficient resources to obtain the legal clarity required to address these concepts.</p> <p>Some kind of cross-community standing committee could be suitable for the Mechanism, akin to the CSC for PTI but with representation reflecting that of the EPDP.</p>	Brian Winterfeldt, Winterfeldt IP Group	<p><b>New Idea</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b>  <b>[COMPLETED / NOT COMPLETED]</b> –  [Instruction of what was done.]</p>
26.	<p>Under: What existing processes / procedures, if any, can be used to meet the above responsibilities? -- in terms of validation: as noted above the WIPO Brands Database contains tens of millions of records across dozens of national and regional offices, see: <a href="http://www3.wipo.int/branddb/en/branddb-help.jsp#db">www3.wipo.int/branddb/en/branddb-help.jsp#db</a></p>	Brian Beckham, WIPO Arbitration and Mediation Center	<p><b>Concerns Divergence Support New Idea</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b>  <b>[COMPLETED / NOT COMPLETED]</b> –  [Instruction of what was done.]</p>
27.	<p>We recommend that the following be added to Recommendation #19:</p> <p>“d) The ability for Contracted Parties to make additional non-public data and services available through the SSAD or otherwise in a manner consistent with applicable data protection law.</p> <p>The EPDP Phase 2 recommendations should not be interpreted as precluding a Contracted Party from collecting additional registration data elements from a Registrant, and disclosing that information via SSAD, or otherwise, in a manner consistent with applicable data protection laws and other regulations.”</p> <p>Various Registry Operators are permitted to collect and publish additional data elements in the RDDs, and this is likely to be the case in the future. It is important that the EPDP</p>	Frank Cona, InfoNetworks	<p><b>Concerns New Idea</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b>  <b>[COMPLETED / NOT COMPLETED]</b> –  [Instruction of what was done.]</p>

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	<p>recommendations do not unnecessarily inhibit innovative uses of the DNS by Contracting Parties in specifically addressing access to traditional Whois data. The EPDP recommendations should not preclude a Contracted Party from implementing enhanced services, as long as those services are provided in a manner consistent with applicable data protection laws and other legal requirements.</p>		
28.	<p>The GAC welcomes the EPDP team’s recognition that the SSAD will likely need to evolve over time. The community is expected to gain more experience with the strengths and weaknesses of the SSAD during its implementation. Also, the GAC anticipates more information and guidance to become available on the applicability of relevant data protection law to the operation and evolution of the SSAD. Issues that are currently complex and uncertain (for example, the degree to which decisions may be made in a centralized and automated manner) may become more clear and predictable with time. This may result in the need to adjust certain policy recommendations in a swift and efficient manner, as opposed to the lengthy and resource intensive process required by a new Policy Development Process. Hence the GAC supports a mechanism for the evolution of the SSAD.</p> <p>However, in the interest of efficiency and fairness, it is vital that any mechanism or advisory committee tasked with advising on adjustments to the SSAD reflects a balanced cross-section of community stakeholders to weigh on these important issues. The GAC had expressed its concerns early on in the EPDP process that it lacked sufficient representation on the EPDP in light of its mandate to serve the public interest. The GAC therefore recommends that any “mechanism” or advisory team shall include adequate representation of all relevant stakeholders.</p> <p>The evolving mechanism encompasses a recommendation that increases automation of disclosure. This will likely entail a shift of responsibility from the Contracted Parties to the central gateway with regards to the assessment of the request. As a result, the GAC notes that there needs to be a clear definition of which parties remain responsible for the disclosure decisions.</p>	Governmental Advisory Committee (GAC)	<p><b>New Idea</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b></p> <p><b>[COMPLETED / NOT COMPLETED]</b> – [Instruction of what was done.]</p>
<b>Significant change required: changing intent and wording</b>			
29.	<p><i>If you do not support Recommendation #19, please provide proposed edits or changes and rationale here:</i> With the added input from the Belgian DPA that a centralized model is a “better, ‘common sense’ option in terms of security and for data subjects”, the EPDP should complete its work based on such a centralized model. This could eliminate the need for such a mechanism to gradually shift the SSAD toward greater centralization.</p> <p><i>What existing processes / procedures, if any, can be used to meet the above responsibilities?</i></p>	Brian King, MarkMonitor	<p><b>Concerns</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b></p> <p><b>[COMPLETED / NOT COMPLETED]</b> – [Instruction of what was done.]</p>

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	<p>This Mechanism, if it exists, must represent the entire ICANN community, and not only the GNSO. It should consider perspectives of SSAD users including law enforcement, cybersecurity, intellectual property owners and agents, and other types of end users.</p> <p><i>What information is needed to ensure the continuous evolution of SSAD?</i> The Mechanism’s remit should be to act unidirectionally toward centralization and automation of all cases possible under the law, and the Mechanism must not be able to unwind centralization established by the EPDP without objective evidence of legal risk. It must have sufficient resources to obtain the legal clarity required to justify the centralization of more use cases over time.</p> <p><i>How is guidance of the Mechanism expected to be implemented?</i> The challenge in developing such a Mechanism is that it must be able to require automation for new request types without that power crossing “the picket fence” or constituting “policy making” under the GNSO’s remit. The challenge associated with creating such a unicorn further evidences that a centralized SSAD is better.</p>		
30.	<p><i>If you do not support Recommendation #19, please provide proposed edits or changes and rationale here:</i> Recommendations stemming from this Mechanism MUST be focused on implementation only.</p> <p>This Mechanism cannot create new policies or contractual obligations on Contracted Parties, and MUST instead be referred to the legitimate and relevant Policy Development Process or direct contract negotiation with ICANN Org.</p> <p>To say “The EPDP Team has indicated a preference to use existing processes and procedures to establish this Mechanism, if possible” is simply unacceptable; regardless of any group’s preference, the existing GNSO Policy Development Process must be utilized.</p> <p>We do recognize that the SSAD needs the ability to adapt, and we’ll learn more as we go. Data protection regulation is going to expand and our SSAD needs to accommodate that. Regarding the three specific areas of purview for this Mechanism, we agree that the SLA will need review and modification as further experience is gathered. However, we see no need to establish ongoing review of the categories of disclosure requests which may be automated, nor will we need modifications to user categories and disclosure rationales. The work of EPDP Phase 2 Team should be respected and accepted as exhaustive on these subjects.</p> <p><i>What existing processes / procedures, if any, can be used to meet the above responsibilities?</i> The existing GNSO Policy Development Process and contract negotiation process should be used.</p>	Zoe Bonython, Registrar Stakeholder Group	<p><b>Concerns</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b></p> <p><b>[COMPLETED / NOT COMPLETED]</b> – [Instruction of what was done.]</p>

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	<p><i>What information is needed to ensure the continuous evolution of SSAD? The only relevant work for the Mechanism is to review and possibly modify SLA obligations, although this may also require contractual negotiation with the Contracted Parties.</i></p> <p><i>What information is needed to ensure the continuous evolution of SSAD? Any Policy or contractual changes should be referred to the GNSO for review.</i></p>		
31.	<p><i>If you do not support Recommendation #19, please provide proposed edits or changes and rationale here: As a threshold matter, INTA questions the necessity of such a Mechanism. INTA notes that the EPDP team decided to deviate from its longstanding preference for a centralized model only as a result of a misinterpretation of a letter received from the Belgian DPA (<a href="https://www.icann.org/en/system/files/correspondence/stevens-to-marby-04dec19-en.pdf">https://www.icann.org/en/system/files/correspondence/stevens-to-marby-04dec19-en.pdf</a>). With the record corrected that the Belgian DPA actually thinks that a centralized model is a “better, ‘common sense’ option in terms of security and for data subjects”, INTA submits that the EPDP should complete its work based on such a centralized model. (<a href="https://www.icann.org/news/blog/icann-meets-with-belgian-data-protection-authority">https://www.icann.org/news/blog/icann-meets-with-belgian-data-protection-authority</a>)</i></p> <p>Should the EPDP team decide that such a Mechanism remains necessary, the composition of the Mechanism must represent the entire ICANN community, and not merely those interests represented in the GNSO. It is critical that such a Mechanism reflects the needs and interests of SSAD users including governments, cybersecurity investigators, and internet users at large.</p> <p>If such a Mechanism is developed, it should be chartered with the power and scope to operate in one clear direction: to move as swiftly as possible toward the greatest amount of standardization (by centralization) and automation as legally possible. The Mechanism must not be allowed to undo any requirements for standardization, centralization, or automation developed by the EPDP team without citing clear, unambiguous legal risk associated with the status quo. With this sole exception, its only goal should be to add use cases which can be standardized, centralized, and automated based on new legal clarity. If this Mechanism is intended to act as a future corrective measure addressing the current lack of legal clarity, it must simultaneously have the power to require new request types to be automated without that power being deemed policymaking such that it fall under the exclusive control of the GNSO. INTA urges that great caution must be taken to achieve this end, and INTA reiterates that the difficulty presented here further supports that developing a centralized model at the outset remains preferable.</p> <p>If it is ultimately determined that the Mechanism is needed, we might look to other forms of standing committees employed by ICANN to continuously examine and recommend improvements to other matters, e.g the IANA Customer Standing Committee, the Empowered Community structure, the GNSO Council Standing Selection Committee, etc. Representation</p>	Lori Schulman, International Trademark Association (INTA)	<p><b>Concerns</b> <b>Divergence</b> <b>Support</b> <b>New Idea</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b></p> <p><b>[COMPLETED / NOT COMPLETED]</b> – [Instruction of what was done.]</p>

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	within this Mechanism should reflect the representative makeup of the EPDP itself (including GNSO stakeholders as well as ALAC, SSAC, and GAC) and its guidance could be channeled to the GNSO Council, ICANN Org, and Board, with implementation of any accepted evolutionary guidance handled by a “standing” ICANN Org IRT in coordination with the standing committee Mechanism.		
32.	<p>Please see rationale provided by the RrSG's public comment to this report.</p> <p><i>What existing processes / procedures, if any, can be used to meet the above responsibilities?</i> Existing GNSO policy development processes</p>	Eric Rokobauer, Endurance International Group	<p><b>Concerns</b> <b>Divergence</b> <b>Support</b> <b>New Idea</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b></p> <p><b>[COMPLETED / NOT COMPLETED]</b> – [Instruction of what was done.]</p>
33.	<p>We ask that the increased centralization of disclosure decision-making be explicitly added to the list of responsibilities of the Mechanism.</p> <p>We also ask that this policy provide that the Mechanism must be given sufficient resources to obtain the legal advice it needs to support its work.</p> <p>We ask that this Mechanism represent the entire ICANN community, rather than only the GNSO, e.g. it should include representatives of ALAC, GAC and SSAC whose perspectives and expertise is important and who represent SSAD requestors not otherwise represented on the GNSO.</p>	Frank Journoud, Motion Picture Association	<p><b>New Idea</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b></p> <p><b>[COMPLETED / NOT COMPLETED]</b> – [Instruction of what was done.]</p>
<b>Recommendation should be deleted</b>			
34.	<p><i>If you do not support Recommendation #19, please provide proposed edits or changes and rationale here:</i> We view a threat that the mechanism for "evolution" of SSAD could become a Trojan Horse whereby hard-fought consensus policy decisions can be undermined or negated by small groups acting outside of public view. We do see a need for updating administration of the SSAD but believe that any such changes must stay within the bounds of policy set by the EPDP.</p> <p><i>What existing processes / procedures, if any, can be used to meet the above responsibilities?</i> A subcommittee of the GNSO Council can engage in long-term oversight of the SSAD's administration.</p> <p><i>If no suitable existing processes / procedures can be used, what type of mechanism should be created factoring in: Who should guidance be provided to? How is guidance developed / agreed to? How should it be structured?</i> An existing process (GNSO council subcommittee) can be used</p> <p><i>What information is needed to ensure the continuous evolution of SSAD?</i></p>	Milton Mueller, Internet Governance Project	<p><b>Divergence</b> <b>New Idea</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b></p> <p><b>[COMPLETED / NOT COMPLETED]</b> – [Instruction of what was done.]</p>

#	Comment	Contributor	EPDP Response / Action Taken
	<p>We object to the term "continuous evolution." We believe there should be a stable, firm and largely unchanging set of policies governing the SSAD which can be changed via PDPs. We recognize a need for updating and revising implementation details in ways that do not change policy or "evolve" it into something new.</p> <p><i>How is guidance of the Mechanism expected to be implemented?</i> The administrator can propose operational improvements; the GNSO Council subcommittee can review them to see if they implicate policy or alter policy or might have bad effects. Council approval should be required to go forward. In some cases public comment might be useful and required.</p>		
35.	<p><i>If you do not support Recommendation #19, please provide proposed edits or changes and rationale here:</i> This section creates an opaque process which can be used to revise policy without public participation.</p> <p><i>What existing processes / procedures, if any, can be used to meet the above responsibilities?</i> A subcommittee of the GNSO Council can engage in long-term oversight of the SSAD's administration.</p> <p><i>If no suitable existing processes / procedures can be used, what type of mechanism should be created factoring in: Who should guidance be provided to? How is guidance developed / agreed to? How should it be structured?</i> An existing process (GNSO council subcommittee) can be used</p> <p><i>What information is needed to ensure the continuous evolution of SSAD?</i> We object to the term "continuous evolution."</p> <p><i>How is guidance of the Mechanism expected to be implemented?</i> Any improvements must involve the GNSO Council through a public process.</p>	Ephraim Percy Kenyanito, Article 19	<p><b>Divergence</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b> [COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>
36.	<p>The need for this Mechanism is unclear, as it seems to replicate several duties which are already present in the GNSO system. SLA modifications should be conducted via contractual negotiation; categories of requests to be automated and implementation of user categories should occur within the GNSO PDP, and disclosure rationales should be determined by the relevant Contracted Party on a case by case basis.</p> <p>We were pleased to read that "The Mechanism focuses solely on the implementation of the SSAD and must not contravene the ICANN Bylaws, the GNSO PDP and/or existing contractual provisions for the development of new requirements for Contracted Parties." It would be inappropriate for the EPDP Phase 2 Team to recommend any method to bypass the existing GNSO PDP or contract update processes. We do note the significant omission of relevant law in</p>	Graeme Bunton, Tucows	<p><b>Divergence</b> <b>New Idea</b></p> <p><b>EPDP Response:</b></p> <p><b>Action Taken:</b> [COMPLETED / NOT COMPLETED] – [Instruction of what was done.]</p>

#	Comment	Contributor	EPDP Response / Action Taken
	<p>what this Mechanism must not contravene; relevant law should also be included here. It must also be the case that simple metrics such as "approved" or "denied" are guarded against; to have sufficient meaning in this context, approval or denial need to be matched to whether the request itself was appropriate or not, including whether it was properly-formatted and whether disclosure would actually achieve the results intended.</p> <p><i>What existing processes / procedures, if any, can be used to meet the above responsibilities?</i> The RrSG has created a reasonable and convenient mechanism for requesting disclosure of personal data that allows the Contracted Parties to apply a balancing test to the rights of the requestor against the privacy rights of the data subject taking into account the specific domain name(s) and the disclosure rationale. As Contracted Parties bear the risk for both failing to appropriately disclose and disclosing inappropriately, both under their local laws, they are best situated to make these determinations which will necessarily differ by Contracted Party, by jurisdiction of Contracted Party, by jurisdiction of requestor, and by jurisdiction of data subject. All of these factors are available to be known by the Contracted Party, again placing them in the best position to receive, review, and respond to requests. The EPDP Phase 2 Team is thanked for their tireless difficult work on this matter but is strongly encouraged to simply adopt the RrSG Minimum Required Information for Whois Data Requests as the best means of submitting requests for data disclosure. It is expected that, upon the EPDP Phase 2 Team's decision to do so, ICANN Contractual Compliance will gain the right to audit responses to data disclosure requests to protect the rights of requestors—again, ensuring that Contracted Parties reasonably review and respond to the requests but not to substitute ICANN Contractual Compliance's opinion for the Contracted Party's expert review. This should be sufficient for any reasonable requestor—as indeed registrars that have been using the RrSG Minimum Required Information for Whois Data Requests can attest to. Again, it is expected that ICANN Contractual Compliance's rights to audit this would fall under a standard audit under the Contracted Parties' respective contracts.</p> <p><i>If no suitable existing processes / procedures can be used, what type of mechanism should be created factoring in: Who should guidance be provided to? How is guidance developed / agreed to?</i> The RrSG Minimum Required Information for Whois Data Requests can be used; alternatively, new policies should go through the standard GNSO PDP, not a Mechanism for improvements.</p> <p><i>How is guidance of the Mechanism expected to be implemented? Any changes or requirements should occur within the standard GNSO PDP or contractual negotiations as needed.</i></p>		
<b>No Opinion</b>			
37.	No opinion	Hend BAKLOUTI,	No opinion EPDP Response: N/A

#	Comment	Contributor	EPDP Response / Action Taken
		Insance Nationale des Télécommunications de Tunis (GAC representative)  Delphine Sarbach, Online Enforcement Team  Sarina Edwards, TUI AG  ChunKuang Wei	<b>Action Taken:</b> N/A <b>COMPLETED</b>
38.	Whatever mechanism is chosen, we strongly advocate for the GAC and SSAC to be fully involved.	Mette M. Andersen, Lego Juris A/S	No opinion <b>EPDP Response:</b> N/A  <b>Action Taken:</b> N/A <b>COMPLETED</b>
39.	No opinion  Whatever mechanism is chosen, we strongly advocate for the GAC and SSAC to be fully involved.	Marie Pattullo, AIM - European Brands Association	No opinion <b>EPDP Response:</b> N/A  <b>Action Taken:</b> N/A <b>COMPLETED</b>
40.	Implementation Guidance: ICANN org suggests deleting implementation guidance #1, which seems to be misplaced and does not belong under Preliminary Recommendation #19 as it is captured under Preliminary Recommendation #12 Query Policy.	Eleeza Agopian, ICANN.org	No opinion  <b>EPDP Response:</b> Note that implementation guidance #1 is not part of Preliminary Recommendation #19.  <b>Action Taken:</b> If the implementation guidance remains, a clearer separation from other recommendations will be envisioned. <b>COMPLETED</b>