

EPDP PHASE II

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TOPICS

- Recommendations supported with wording change
- General Comment
- Phase 1 - ICANN purposes for processing the data – Purpose 2

RECOMMENDATION #1: ACCREDITATION

Response: Support with wording change

Accreditation is an important element of the SSAD as it saves the time and effort required by decision-making entities to verify the requestor, provides external assurance that the requestors have been verified and reduces the load on the SSAD. However, the ALAC is concerned that given the fact that requests to SSAD can only be submitted by accredited users, the accreditation process could end up being a bottle neck, limiting access to the system. We therefore see that the accreditation entity in addition to having a uniform baseline application procedure and accompanying requirements should also have a clear timeline for its process and response

RECOMMENDATION #6: CONTRACTED PARTY AUTHORIZATION

Response: Support with wording change

The recommendation requires the contracted party to determine if the requestor provided legitimate interest or other lawful basis in processing the data and if the data requested is necessary to the requestors stated purpose. If the answer is affirmative the contracted party examines if the requested data contains personal data, if not then the data is disclosed without further consideration. We note that there is no need to examine the lawful basis and interest of the requestor if no personal data is required. Non-personal information is not protected under GDPR and all requestors are accredited users thus their identity is verified, this is an unnecessary step that:

- a) may allow the rejection of a request where the requested data is not protected under GDPR or
- b) may delay the response to a request that includes non-personal information

RECOMMENDATION #7: AUTHORIZATION FOR AUTOMATED DISCLOSURE REQUESTS

Response: Support with wording change

The EPDP team has indicated only two types of disclosure requests that can be automated from the start. We note that automation provides consistency, sustainability and quicker response time. We recommend trying to put forward more types of disclosure requests for automation by seeking the advice of the DPA's.

Such requests should site explicit classes of requests and the rationale for allowing automated disclosure.

This work can be done during the implementation phase but must explicitly be described in the final report.

RECOMMENDATION #9: DETERMINING VARIABLE SLAS FOR RESPONSE TIMES FOR SSAD

Response: Support with wording change

Urgent requests that are defined as circumstances that pose an imminent threat to life, serious bodily injury, critical infrastructure (Online and offline) or child exploitation, are critical situations that require immediate responses. According to the recommendation, the urgent response is one business day that is if the request is submitted on a Friday afternoon the response could be provided on Monday that is after three days, we regard this as a very long response period for an urgent request and recommend that the response time is one day instead of one business day.

The RAA already calls for 24 hour staffing for certain types of urgent requests and this class of disclosure request should be treated similarly.

RECOMMENDATION #15: FINANCIAL SUSTAINABILITY

Response: Support with wording change

The phrase “Data subjects **MUST NOT** bear the costs for having their data disclosed to third parties” is too vague and subject to mis-interpretation. Registrants, directly or indirectly are the prime source of revenue to ICANN and a major source of revenue to contracted parties. So the costs borne by ICANN and contracted parties implicitly (which this recommendation allows) **DOES** ultimately come from registrants.

The wording should be changed to say that Registrants should not be subjected to explicit additional charges associated with the operation of the SSAD

RECOMMENDATION #19 MECHANISM FOR THE EVOLUTION OF THE SSAD

Response: Support with wording change

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 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.

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 only has jurisdiction over policy matters (and this present policy recommendation will already allow the creation of new classes of automated responses).

GENERAL COMMENT

The ALAC notes the importance of some priority 2 issues like differentiation between legal vs natural persons and the accuracy of the data.

Ending up with a disclosure system that returns inaccurate data and thus useless responses would be a waste to the effort put by all elements of the system and of no use to the requestor.

Differentiation between natural and legal persons would offload the system from unnecessary queries that are permissible under GDPR.

PHASE 1-ICANN PURPOSES FOR PROCESSING THE DATA — PURPOSE 2

Proposed agreed upon wording

Contribute to the maintenance of the security, stability, and resiliency of the Domain Name System in accordance with ICANN's mission

THANK YOU - QUESTIONS?

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