

# ALAC COMMENT ON THE ADDENDUM TO THE EPDP — PHASE2 INITIAL REPORT

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# AGENDA

- Introduction
- ALAC Comments On the recommendations presented in the addendum
- Discussion

# INTRODUCTION

- ❑ The EPDP team divided its work into priority 1 and priority 2 items.
- ❑ Priority 1 was concerned with a system for access/disclosure for non public registration data and was addressed in the EPDP team's initial report.
- ❑ The addendum to the initial report presents 8 recommendations that address priority 2 items.

# ALAC COMMENTS ON THE RECOMMENDATIONS PRESENTED IN THE ADDENDUM

## **Preliminary recommendation #20 Display of Information of affiliated vs. accredited privacy/proxy providers.**

Since all domains registered via accredited privacy/proxy services providers will be labeled as such in the domain registration data, the ALAC fully supports the recommendation. Should the domain registration be done via accredited privacy-proxy provider the data must not be redacted.

The ALAC notes that in the recommendation and the text, there are multiple references to “data associated with a natural person”. In fact a privacy/proxy registration may mask the data of ANY registrant, whether natural or legal person. As the recommendation stands, it might be construed that masking of the p/p service RDDS data would be allowed if the underlying registrant is a legal person, and that was not what was intended.

The ALAC also notes that Privacy & Proxy Services Accreditation Issue (PPSAI) PDP implementation has been halted pending the EPDP outcomes. The EPDP has determined that there is no need for the PPSAI implementation to be halted. The PPSAI PDP began in 2013 and the recommendations were approved by the Board in 2016. The implementation **MUST** be completed with haste and the EPDP must make a clear recommendation to that effect.

# ALAC COMMENTS ON THE RECOMMENDATIONS PRESENTED IN THE ADDENDUM

## **Preliminary Conclusion – Legal vs. Natural Persons**

On April 9, the EPDP team received Bird & Bird response to the legal committee in relation to two questions regarding the accuracy of the registration data and the differentiation between natural and legal persons' personal information. In addition, the ICANN org survey in relation to the feasibility and costs, examples of industries that have successfully implemented the differentiation and the various risks associated is to be delivered in May. To that end, although the EPDP team has agreed that the topic of legal vs natural is not on the critical path for the delivery of the final report on a system for access/disclosure of nonpublic registration data, the ALAC is of the view that a recommendation in relation to legal vs natural is possible at this stage. The ALAC would not like to waste the opportunity to have a more efficient system nor would we like to waste all the hard work and discussions that have occurred in this regard. For that, the ALAC does not agree to the preliminary conclusion on Legal vs Natural Persons. We believe that the EPDP team has not made use of the information available in this regard and that potential next steps are feasible at the current stage if the will exists

For avoidance of doubt, the ALAC does not agree to return the issue to the GNSO for possible action (or inaction) at some unknown future date.

The ALAC understands that differentiation may be difficult for existing registrations and that some time may be needed to fully implement differentiation, but that is not a reason to not do so for new registrations and to begin the process of adjusting existing registrations.

# ALAC COMMENTS ON THE RECOMMENDATIONS PRESENTED IN THE ADDENDUM

## **Preliminary Conclusion – City Field Redaction and Preliminary Recommendation #21. Data Retention**

The ALAC supports the recommendations.

# ALAC COMMENTS ON THE RECOMMENDATIONS PRESENTED IN THE ADDENDUM

## **Preliminary Conclusion – OCTO Purpose**

In light of preliminary recommendation number 22, purpose two, the ALAC supports not adding a purpose in relation to ICANN's Office of the Chief Technology Officer. We believe that ICANN purpose number two would cover such a purpose for OCTO when required.

# ALAC COMMENTS ON THE RECOMMENDATIONS PRESENTED IN THE ADDENDUM

## **Preliminary Conclusion - Feasibility of unique contacts to have a uniform anonymized email address**

The ALAC cannot support the rejection of anonymized email addresses. The Bird & Bird memo clearly equates “masking” of email addresses with “the data controller hands over part of this dataset”. The form of anonymization that the EPDP has considered does not include providing ANY PART of the original address and thus the term “masking” is entirely inappropriate.

The ALAC can see no way in which a party other than the Registrar who created the anonymization could associate the new address with the registrant. Moreover, saying that the anonymized address allows contact and is thus personal information implies the same thing for a Web Link which also allows contact.

Moreover, Item 9 of the Bird & Bird memo gives significant benefits to using an anonymized address

Lastly, if the EPDP were to not allow anonymized email addresses to be published, then the ALAC believes that the EPDP has an obligation to recommend options for what IS legitimately allowed to ensure the registrant is contactable



# ALAC COMMENTS ON THE RECOMMENDATIONS PRESENTED IN THE ADDENDUM

## **Preliminary Conclusion – Accuracy and Whois Accuracy Reporting System**

In light of the current information, provided by Bird & Bird in relation to the accuracy of the registration data, the ALAC is of the view that a recommendation with regard to accuracy is possible at this stage and that such a recommendation would either definitively address the issue or, at worst, would help and inform the GNSO scoping team. To that end, the ALAC does not support the recommendation. The EPDP Phase 1 Report committed that this issue would be covered, and that commitment was an essential component of the ALAC supporting that report.

The ALAC notes that the RDS-WHOIS2 Specific Review made a strong recommendation that resumed operation of the Accuracy Reporting System or something comparable is essential given the high rate of inaccuracy observed on pre-GDPR WHOIS data and the fact that the EPDP Phase 1 recommendation significantly reduced the number of possible contact points, increasing the potential for uncontactability. The SSR2 Specific Review makes a comparable recommendation in its draft report.

# ALAC COMMENTS ON THE RECOMMENDATIONS PRESENTED IN THE ADDENDUM

## **Preliminary Recommendation #22. Purpose 2**

In light of the EDPB letter and ICANN board recommendation in relation to this ICANN purpose, the ALAC fully supports adding the stated purpose to the ICANN purposes for processing gTLD registration data mentioned in recommendation one of the EPDP phase one final report.



# DISCUSSION

**THANK YOU - QUESTIONS?**

