

# CPWG EPDP PHASE II FINAL REPORT

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# AGENDA

- ❑ Objective of SSAD
- ❑ How does the SSAD work?
- ❑ Initial Report & Addendum
- ❑ Priority 1 Recommendations
- ❑ Priority 2 Recommendations
- ❑ Automation of SSAD Processing (Recommendation 9)
- ❑ Review of Implementation of Policy Recommendations Concerning SSAD using GNSO Standing Committee (Recommendation 18)
- ❑ Concerns

# OBJECTIVE OF SSAD

- ❑ The objective of the SSAD is to provide a predictable, transparent, efficient, and accountable mechanism for the access/disclosure of non-public registration data.
- ❑ The SSAD must be compliant with the GDPR.

# HOW DOES THE SSAD WORK?

- ❑ Requestors are accredited by an accreditation entity
- ❑ A Central Gateway Manager (CGM) is responsible for the intake of requests
- ❑ SSAD requests that meet the automation criteria are directed to the relevant Contracted Party (CP) for release of data
- ❑ SSAD requests that require manual review are routed to the relevant CP
- ❑ Requests from accredited users are received, authenticated, and transmitted by the CGM to the relevant CP in an automated fashion
- ❑ The CP Follows a standardized review and response process
- ❑ Responses are provided from the CP to the requestor
- ❑ A logging mechanism enables the CGM to follow the requests and ensures SLAs are met
- ❑ A GNSO standing committee will be chartered by the GNSO to introduce improvements to the implementation of the SSAD

# INITIAL REPORT & ADDENDUM

- Initial report: concerns priority 1 recommendations/SSAD recommendations
- Addendum: concerns priority 2 recommendations and Conclusions

# PRIORITY 1 RECOMMENDATIONS

1. Accreditation
2. Accreditation of governmental entities
3. Criteria and Content of Requests
4. Acknowledgment of receipt
5. Response Requirements
6. Priority Levels
7. Requestor purposes
8. Contracted Party Authorization
9. Automation of SSAD Processing
10. Determining Variable SLAs for response times for SSAD
11. SSAD Terms and Conditions
12. Disclosure Requirements
- 13 Query Policy
14. Financial Sustainability
15. Logging
16. Audits
17. Reporting Requirements
18. Review of implementation of policy recommendations concerning SSAD using a GNSO Standing Committee

# PRIORITY 2 RECOMMENDATIONS/CONCLUSIONS

## **Priority 2 recommendations**

19. Display of information of affiliated privacy/proxy providers
20. City Field
21. Data Retention
22. Purpose 2

## **Priority 2 Conclusions**

1. OCTO Purpose
2. Accuracy and WHOIS Accuracy Reporting System

## **Remaining Priority 2 items**

1. Feasibility of unique contacts to have uniform anonymized email address
2. Legal vs Natural

# REC # 9 AUTOMATION OF SSAD PROCESSING

- ❑ CPs **MUST** process in an automated manner disclosure decisions for any categories of requests for which automation is determined(9.4 & Rec 18) to be technically and commercially, feasible and legally permissible
- ❑ For the avoidance of doubt, the EPDP Team recommends that any categories of disclosure decisions that do not currently meet these criteria will not be foreclosed from consideration of automated disclosure in the future, subject to the processes detailed in **Recommendation #18**
- ❑ With respect to non-automated disclosure requests the CP may request the Central Gateway to automate the processing of the disclosure decision of certain types of requests or requests coming from certain requestors



# REC # 9 AUTOMATION OF SSAD PROCESSING

## CP Safeguards

- If the CP determines the automation of disclosure is not legal or brings with it significant risk (as an example through a DPIA), CP can ask ICANN org for an exemption
- ICANN org **MUST** reverse the exemption if it finds the claim incorrect
- In the context of further consideration of potential use cases that are deemed legally permissible in the context of recommendation #18, legally permissible is expected to be determined, in the absence of authoritative guidance (e.g. EDPB, European Court of Justice (ECJ), new law), by the party bearing liability for the automated processing of disclosure decisions (Implementation guidance)

# REC # 18 REVIEW OF IMPLEMENTATION OF POLICY RECOMMENDATIONS CONCERNING SSAD USING GNSO STANDING COMMITTEE

- A GNSO standing Committee to be established to evaluate SSAD operational issues
- The composition of the GNSO Standing Committee shall be representative of the ICANN Advisory Committees and GNSO Stakeholder Groups and Constituencies represented in the current EPDP Team. One member and one alternate from each
- The GNSO Council may consider inviting ICANN org liaisons as members
- For recommendations to achieve a consensus, the support of the Contracted Parties will be required
- The Standing Committee may recommend to the GNSO Council that the Committee itself be disbanded – by simple majority

# REC # 18 REVIEW OF IMPLEMENTATION OF POLICY RECOMMENDATIONS CONCERNING SSAD USING GNSO STANDING COMMITTEE (RECOMMENDATION 18)

The Charter must allow the Committee to address any operational issues involving the SSAD. This may include, but is not limited to:

- Service Level Agreements (SLAs),
- Automation,
- Third party purposes,
- Financial sustainability and
- Operational / system enhancements.

# REC # 18 REVIEW OF IMPLEMENTATION OF POLICY RECOMMENDATIONS CONCERNING SSAD USING GNSO STANDING COMMITTEE

Issues the Committee may address shall be determined by one of two methods:

- Any policy or implementation topic concerning SSAD operations may be raised by a member of the GNSO Standing Committee, and shall be placed on the agenda if seconded by at least one other committee member
- The GNSO Council may choose to task the GNSO Standing Committee with the evaluation of operational issues it identifies

# REC # 18 REVIEW OF IMPLEMENTATION OF POLICY RECOMMENDATIONS CONCERNING SSAD USING GNSO STANDING COMMITTEE

- Recommendations concerning implementation guidance shall be sent to the GNSO Council for consideration and adoption
- Recommendations which require changes to existing ICANN Consensus Policies shall be recorded and maintained, to be used in the issues scoping phase of future policy development and/or review

# CONCERNS

- ❑ Addition of new automated cases considered a policy issue
- ❑ Priority 2 remaining items
  - Legal vs Natural
  - Feasibility of unique contacts to have a uniform anonymized email address
- ❑ Priority 2 concluded item – Accuracy

The EPDP Team will not consider this topic further. The GNSO will form a scoping team to further explore the issue and appropriate next steps

**THANK YOU - QUESTIONS?**