EDPD
Status Update

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09 May 2022

HISTORY

- Privacy legislation in various jurisdictions
- European General Data protection Regulations
  - Enacted in 2016
  - Effective May 2018 – Penalties!
  - Complex & expensive
  - Unavoidable
- ICANN kickoff to address GDPR wrt WHOIS – June 2017
- ICANN Temporary Specification
  - May 2918
  - Interim policy
  - 1 year life-time

Expedited Policy Development Process

Mandate

- Develop new policy to replace Temp. Spec.
- Develop a methodology for those who need additional access to get it

- Note: "expedited" means some specific steps in a PDP are bypassed to allow quicker completion, NOT a guarantee that it will be quick.

EPDP Phase 1 Results

- Phase 1
  - New policy eliminating some fields
  - Redacting all contact fields
  - Effective erasure of Organization Field
  - Allow but not require Legal/Natural distinction (to be further discussed)
  - Email contact anonymization – unclear status (to be further discussed)
  - Accuracy issue not resolved (to be further discussed)
  - No geographic differentiation
  - Temp Spec rules to continue for several months (after May 2019) during implementation
    - Still not implemented 2 years after the target date!!!

EPDP Phase 2 Results

- SSAD – Standardized System for Access/Disclosure
  - Centralized portal for requests
  - Expensive
  - Almost no requests satisfied by portal
    - Relayed to registrar (or registry)
    - Therefore not uniform handling
  - Probably no chance for further evolution without additional PDPs
  - Legal/Natural, Email and Accuracy not addressed

ALAC Position

- SSAD will not meet target of providing non-public data to those with a right-to-know in an affordable, timely manner

- Proposed System, despite significant EPDP, design and implementation costs, not much different from current ad-hoc system (driven by the belief that Registrars are "controllers" and that controllers may only release data after "balancing" needs of recipient with right to privacy.

ALAC Position – 2

- System will not be able to adapt with any agility – likely PDPs required.

- GNSO Council forwarded Recommendation to the Board that did not have EPDP support.

- Important issues not addressed (Legal/Natural).

EU Revised Directive on Security of Network and Information Systems (NIS2)

- Was subject to public comment
- EU Parliament & Council
- Member states for law enactment
- Many aspects but including identifying Domain registration data (and DNS as critical functions)
- Timing
  - Perhaps through EU Parliament this year
  - Member state laws within 3 years

ALAC Advice

- Either reject SSAD Recs and/or request GNSO to reconsider (perhaps waiting for NIS2)

- Instead build/buy a "ticketing system" to track disclosure requests (and results). If a PDP is needed to require its use, initiate one.

- Track NIS and ensure level playing field

ALAC Noted

- Increasing number of PDPs that consume very significant ICANN Org and community resources, but ultimately do not have any viable results, or have results very different from those envisioned.

  - Thick WHOIS – 2013
  - Privacy Proxy – 2015
  - EPDP Phase 1 – 2019
  - EPDP Phase 2

EPDP Phase 2A

Addressing:

- Legal/Natural
- Email anonymization

From and ALAC perspective:

- 35 meetings, 600 e-mail messages over 9 months:
- ➔Nothing of substance

Back to the SSAD

- Operational Design Procedures (ODP)
  - Provide Board with sufficient information to make a decision
  - Result: Operational Design Analysis (ODA)
    - Big job! Lots of assumptions
    - Price: $14M-107M
      - Actual: Development $20M, Operational $5M-7M
      - Rest: Fees for service
    - Some key wrong assumptions which reduced viability (low already)

GNSO Small Team

- Board asking GNSO Council on how to proceed

  – Clear message is that Board has concerns over SSAD as proposed (they say not concerns, but just questions…)

- GNSO Council convened to advise GNSO Council on what to tell the Board

Small ODA Team

- Productive discussions
- General belief that ODA not sufficient to make a decision to implement
  - Too many unknowns
- Current direction is to recommend that a "Proof of Concept" be designed and implemented
  - Despite name, it has the same functionality as the ALAC "ticketing system"
  - Currently awaiting ICANN Org analysis of such a system (build, re-purpose or buy)
- Productive and open discussions
- Supposed to be done now. But we are not!

Back to EPDP Phase 1/2

- Not done:
  - Email anonymization
    - Addressed in Phase 2a
  - Legal/Natural
    - Addressed in Phase 2a
  - Accuracy
    - Possible future action. Is a PDP needed?

Accuracy Scoping Team

GNSO small group to evaluate HOW to proceed with respect to accuracy
  – What is accuracy??
  – Do we need to change? Is there a problem?

- Difficult discussions – again!
- Clear desire from contracted parties to not want to further complicate their lives
- Clear desire from (most) non-contracted parties to see more accurate (to be defined) data

- NIS may intervene and impact this

Accuracy Scoping Team - 2

- Issue of WHO should assess accuracy (however defined)
  - Registrars
  - ICANN (or third party)
    - Are we allowed to access data to do this?

Discussion

NARALO - EPDP Update - Alan Greenberg