gTLD Registration Data

ICANN Policy Primer on Domain Name Registration Data

ICANN Policy Development Accelerator

SEPTEMBER 2023 TO MARCH 2024

TERM 1

Table of Contents

1. Glossary 4

2. Protocol Development from WHOIS to RDAP 7

2.1 What is WHOIS? 7

2.2 History of Protocol Development 8

2.3 History of the ICANN authority over registration data and service 11

3. ICANN Policies and Developments Related to Domain Name Registration Data (2003–2015) 13

3.1 WHOIS Task Force 13

3.2 Inter-Registrar Transfer Policy Development Process 14

3.2.1 Additional WHOIS Information Policy 14

3.3 Thick WHOIS 14

3.3.1 Thick WHOIS PDP 15

3.3.2 Thick WHOIS Transition Policy for .COM, .NET and .JOBS 15

3.3.3 Registry Registration Data Directory Services Consistent Labeling and Display Policy 16

3.4 Translation and Transliteration of Contact Information Policy 17

3.5 Privacy and Proxy Services Accreditation Issues Policy Development Process 18

4. Temporary Specification for gTLD Registration Data 21

4.1 General Data Protection Regulation (GDPR) 21

4.2 ICANN's Response to GDPR 22

4.3 Temporary Specification for gTLD Registration Data 23

5. GNSO Expedited Policy Development Process on the Temporary Specification for gTLD Registration Data Phase 1 26

5.1 EPDP-TempSpec Phase 1 Charter through the Initial Report 26

5.2 EPDP-TempSpec Phase 1 Final Report 28

5.3 ICANN Community Group Perspectives in EPDP-TempSpec Phase 1 29

5.3.1 ALAC Advice During EPDP-TempSpec Phase 1 29

5.3.2 GAC Advice During EPDP-TempSpec Phase 1 30

5.3.3 SSAC Advice During EPDP-TempSpec Phase 1 31

SAC101 31
SAC104 31
5.3.4 Business Constituency and the Intellectual Property Constituency 32
6. EPDP-TempSpec Phase 2 33
6.1 Deliberations and Recommendations of EPDP-TempSpec Phase 2 33
6.2 ICANN Community Group Perspectives in EPDP-TempSpec Phase 2 36
6.2.1 ALAC Statements during EPDP-TempSpec Phase 2 36
6.2.2 GAC Advice during EPDP-TempSpec Phase 2 37
6.2.3 SSAC Inputs during EPDP-TempSpec Phase 2 38
6.2.4 Minority Statements in EPDP Phase 2 Final Report 38
7. EPDP-TempSpec Phase 2A 40
7.1 Deliberations and Recommendations of EPDP Phase 2A 40
7.2 ICANN Community Group Perspectives in EPDP-TempSpec Phase 2A 42
7.2.1 ALAC Statements during EPDP-TempSpec Phase 2A 42
7.2.2 GAC Advice during EPDP-TempSpec Phase 2A 42
7.2.3 SSAC Comments during EPDP-TempSpec Phase 2A 42
7.2.4 Minority Statements in EPDP-TempSpec Phase 2A Final Report 43
8. EPDP-TempSpec Policy Recommendations 45
9. Registration Data Policy 46
9.1 Developing a New Registration Data Consensus Policy 46
9.2 Draft Registration Data Policy 48
9.3 Timeline to Respond to Urgent Requests for Disclosure of Domain Name Registration Data 50
9.4 Registration Data Policy Updates and Next Steps 51
10. System for Standardized Access/Disclosure (SSAD) and Registration Data Request System (RDRS) .. 52
10.1 SSAD Operational Design Phase 52
10.2 Registration Data Request Service 54
11. GNSO Registration Data Accuracy Scoping Team 57
Annex A. Timeline of RDAP and Policy Development Events Described in Module 1 58

Glossary

Additional WHOIS Information Policy (AWIP): Policy resulting from the work of the Inter-Registrar Transfer Policy Working Group.

Affirmation of Commitments (2009): Contract between ICANN and the U.S. Department of Commerce to institutionalize and memorialize the global technical coordination of the domain name and addressing system by a private sector-led organization. Prior to the IANA transition, this commitment gave ICANN authority over enforcing Registration Data Directory Service requirements in its contracts.

Domain Name Registration Data or Registration Data: The information that registrants provide when registering a domain name and that registrars or registries collect. Some of this information is made available to the public.

Domain Name Supporting Organization (DNSO): precursor to the Generic Names Supporting Organization (GNSO), one of the original supporting organizations within ICANN.

Extensible Provisioning Protocol (EPP): A protocol used for electronic communication between a registrar and a registry for provisioning (creating, amending, and removing) domain name registrations.

European Union's General Data Protection Regulation (GDPR): The General Data Protection Regulation was adopted by the European Union (EU) on 14 April 2016 and took effect on 25 May 2018 across the EU countries. According to the European Commission, the aim of the GDPR is to protect all EU residents from privacy and data breaches. It applies to the processing of personal data of individuals in the European Union, regardless of whether the processing occurs within or outside the European Union.

Expedited Policy Development Process (EPDP): The early steps of the policy development process are eliminated to accelerate policy development. The ICANN Bylaws detail the specific criteria required for the Generic Names Supporting Organization (GNSO) Council to initiate an expedited policy development process.

Generic Name Supporting Organization (GNSO): One of three Supporting Organizations in the ICANN community. The GNSO develops policies relating to generic top-level domains (gTLDs). Its membership consists of representatives advocating for gTLD registry, gTLD registrar, noncommercial, not-for-profit, business, intellectual property, and Internet service provider and connectivity interests. The GNSO Council manages the policy development process relating to gTLDs.

Internet Engineering Task Force (IETF): A large, open, international community of network designers, developers, operators, and researchers concerned with the evolution of the Internet architecture and the stable operation of the Internet. The IETF develops Internet standards for the communication protocols that enable the flow of data over the network. Because ICANN and the IETF rely closely on each other's work, representatives from IETF are included in the ICANN Board and Nominating Committee.

Inter-Registrar Transfer Policy Development Process (IRTP): A GNSO working group that took the WHOIS Task Force recommendations and worked to develop responsive consensus policies.

Internationalized Registration Data Working Group (IRD-WG): A working group formed by the GNSO and the Security and Stability Advisory Committee to study the feasibility and suitability of introducing display specifications to deal with the internationalization of registration data.

Internet Assigned Numbers Authority (IANA): The suite of Internet coordination functions relating to ensuring the assignment of globally unique protocol parameters, including management of the root of the Domain Name System (DNS) and the Internet Protocol (IP) address space. The IANA functions are delivered by Public Technical Identifiers (PTI), an affiliate of ICANN.

Policy Development Process (PDP): The process through which ICANN Supporting Organizations develop policies within ICANN's mission and scope. The policy development process includes opportunities for Public Comment to allow interested members of the global Internet community to share their views on policy proposals. When the relevant community achieves consensus, a Supporting Organization submits the policy recommendations to the ICANN Board for approval.

Privacy and Proxy Services Accreditation Issues Policy Development Process: A working group chartered by the GNSO to create an issue report to deal with remaining issues not covered by the negotiations with the Registrars Stakeholder Group in October 2011 regarding the 2013 RAA.

Privacy Services: Privacy services allow a domain name holder (registrant) to be listed as the registrant of record but with alternate, valid contact information (such as a mail-forwarding service address) published in place of the registrant's contact information.

Proxy Services: Proxy services allow a domain name to keep certain identity and contact details from appearing in public WHOIS information. The proxy service becomes the registered name holder of record, and its identity and contact information is displayed in WHOIS data.

Registrant: An individual or entity who registers a domain name. Upon registration of a domain name, a registrant enters into a contract with a registrar.

Registrar Accreditation Agreement (RAA): An agreement between ICANN and generic top-level domain (gTLD) registrars that sets out minimum requirements for the performance of domain name registration functions and recognizes entities meeting those standards.

Registrar: An organization through which individuals and entities (registrants) register domain names. During the registration process, a registrar verifies that the requested domain name meets registry requirements, and submits the name to the appropriate registry operator. Registrars are also responsible for collecting required contact information from registrants and making the information available through WHOIS.

Registration Data Access Protocol (RDAP): An internet standard protocol developed to replace the WHOIS protocol. It delivers registration data like WHOIS, but its implementation will change and standardize data access and query response formats.

Registration Data Directory Service (RDDS): The service(s) offered by registries and registrars to provide access to Domain Name Registration Data.

Registry: An authoritative master database of the domain names registered in a top-level domain (TLD). Each TLD is associated with a registry that contains a record for each domain name that exists in its domain. The Domain Name System (DNS) consults the TLD registry to obtain the authoritative name servers for the domain names registered in that TLD.

Registry Agreement (RA): gTLD Registry Agreements establish the rights, duties, liabilities, and obligations ICANN requires of registry operators to run gTLDs.

Request for Comments (RFC): A document of record produced by the Internet Engineering Task Force (IETF), the Internet Research Task Force (IRTF), or the Internet Architecture Board (IAB). When the IETF develops an Internet standard, the standard is published as an RFC.

Security and Stability Advisory Committee (SSAC): One of four Advisory Committees in the ICANN community. The SSAC advises the ICANN Board and the ICANN community on issues relating to the security and integrity of the Internet naming and address allocation systems. Besides providing guidance on security matters during policy development, the SSAC monitors the Internet naming and address allocation system for threats. The members of SSAC are appointed by the ICANN Board.

Thick WHOIS Policy: ICANN and the Thick WHOIS Implementation Review Team identified two outcomes for the Thick WHOIS Policy recommendations and agreed that their implementation could be split into two tracks:

- Consistent Labeling and Display of WHOIS output for all gTLDs
- Transition from thin to thick for .COM, .NET and .JOBS

WHOIS: An overarching term used to refer to many interrelated items such as protocols, services, and data types associated with Internet naming and numbering resources.

WHOIS Policy Review Team: A community review of WHOIS policy and its implementation to assess the extent to which WHOIS policy is effective and its implementation meets the legitimate needs of law enforcement and promotes consumer trust.

WHOIS Task Force (2001): A group responsible for improving the effectiveness of the WHOIS service and to maintain the stability and security of the DNS without compromising the privacy and personal information of individuals who are registered as the administrative or technical contact for a particular domain name.

2 Protocol Development from WHOIS to RDAP

What is WHOIS?

The term "WHOIS" is used to refer to many interrelated items such as the protocols, services, and data types associated with Internet naming and numbering resources, i.e., domain names, Internet Protocol (IP) addresses, and Autonomous System Numbers (ASNs).[1] For a long time, WHOIS could collectively refer to any of the following:[2]

1. The **information** that registrants provide when registering a domain name and that registrars or registries collect (registrant name, address, telephone; administrative and billing contacts; etc.). Some of this information is made available to the public.
2. The transaction-oriented query and response **protocol** that makes access to registration data possible. For example, the WHOIS protocol (RFC[3] 3912) and HTTP (RFC 2616 and its updates) are commonly used to provide public access to registration data.
3. The **services** offered by registries and registrars provide access to all or a subset of WHOIS data.

ICANN began to standardize WHOIS terminology in 2011 after receiving advice from the Security and Stability Advisory Committee (SSAC) in SAC051: SSAC Report on Domain Name WHOIS Terminology and Structure. Today, while the term "WHOIS" is still embedded in popular use, the following terms provide more specificity on the broader topic of domain name registration data:

- **Domain Name Registration Data** or **Registration Data**: The information that registrants provide when registering a domain name and that registrars or registries collect. Some of this information is made available to the public. For interactions between ICANN-accredited generic top-Level domain (gTLD) registrars and registrants, the data elements are specified in the current Registrar Accreditation Agreement (RAA) and applicable ICANN Consensus Policies. For country code top-level domains (ccTLDs), the operators of these TLDs set their own or follow their government's policy regarding the request and display of registration information.[4]
- **Registration Data Access Protocol (RDAP)**: An Internet standard protocol developed to replace the WHOIS protocol. RDAP is a protocol that delivers registration data like WHOIS, but its implementation will change and standardize data access and query response formats.[5]
- **Registration Data Directory Service (RDDS)**: the service(s) offered by registries and registrars to provide access to Domain Name Registration Data.[6]

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[1] See SAC051: SSAC Report on Domain Name WHOIS Terminology and Structure, https://www.icann.org/en/system/files/files/sac-051-en.pdf
[2] See WHOIS Policy Review Team Final Report, May 2012, https://www.icann.org/en/system/files/files/final-report-11may12-en.pdf
[3] RFC formerly stood for Request for Comments, but is currently a pseudo-acronym without meaning https://www.ietf.org/standards/rfcs/
[4] See glossary, EPDP-TempSpec Team Phase 2 Final Report, https://gnso.icann.org/sites/default/files/file/field-file-attach/epdp-phase-2-temp-spec-gtld-registration-data-2-31jul20-en.pdf
[5] As defined in RFC 8499: DNS Terminology, https://www.ietf.org/rfc/rfc8499.txt
[6] See glossary, EPDP-TempSpec Team Phase 2 Final Report, https://gnso.icann.org/sites/default/files/file/field-file-attach/epdp-phase-2-temp-spec-gtld-registration-data-2-31jul20-en.pdf

History of Protocol Development

WHOIS traces its roots to 1982, when the Internet Engineering Task Force (IETF) published RFC 812: NICNAME/WHOIS,[7] a protocol for a directory service for users of the Advanced Research Projects Agency Network (ARPANET), the first public computer network. The IETF is a technical body that makes voluntary standards that are often adopted by Internet users, network operators, and equipment vendors, including ICANN.[8] For the purposes of registration data, the IETF is concerned with the architecture of the registration data systems and the protocols over which they operate. The IETF makes recommendations through RFCs, which can be classified as the following statuses: Internet Standard, Proposed Standard, Best Current Practice, Experimental, Informational, and Historic. For WHOIS, these draft standards and finalized publications have been the significant documents in the development of the systems described throughout this module.

When WHOIS was first introduced, there were relatively few domain names and IP addresses, and the registration process was simpler than it is today. Organizations and individuals would register their own domain names or IP addresses directly with the Network Information Center (NIC), the sole organization that provided registry and registrar service on behalf of the United States (U.S.) Defense Communications Agency, which was responsible for maintaining registration data for the Internet. The NIC would collect and store registration data in a centralized database, which was accessible through the WHOIS protocol. When someone queried the WHOIS database for information about a particular domain name or IP address, the NIC would respond with the relevant registration data. Initially, the directory simply listed the full name, U.S. mailing address, telephone number, and network mailbox that was requested of anyone transmitting data across the ARPANET. Anyone with access to ARPANET was able to query the WHOIS database and obtain this information.

Example Input and Output from RFC 812

```
Command line: dyer
Response:
   Dyer, David A. (DAD2)   DDYER@USC-ISIB  (213) 822-1511
   Dyer, Fred S. (FSD)  Dyer@RADC-MULTICS  (315) 330-7275
   Dyer, Mary K. (MARY)   DYER@SRI-NIC     (415) 859-4775
   Dyer, William R. (WRD)   WRDyer@RADC-MULTICS  (315) 330-7791
Command line: mary
Response:
   Dyer, Mary K. (MARY)          DYER@SRI-NIC
   SRI International
   Network Information Center
   Telecommunications Sciences Center
   333 Ravenswood Avenue
   Menlo Park, California 94025
   Phone: (415) 859-4775
```

[7] See RFC 812: NICNAME/WHOIS, https://www.ietf.org/rfc/rfc812.txt
[8] See Introduction to the IETF, https://www.ietf.org/about/introduction/

As the Internet grew, the WHOIS ecosystem evolved. In 1985, the IETF updated the WHOIS protocol with RFC 954: NICNAME/WHOIS.[9] This update coincided with the creation of the domain name system (DNS) in 1983, which led to a more decentralized WHOIS system as domain registration responsibilities shifted from a central hub to individual domain registrars and registries. Further updates came in 2004 with RFC 3912: WHOIS Protocol Specification[10] to reflect the continued decentralization of WHOIS service. This revision allowed querying any WHOIS server on the Internet to obtain information about registered domain names and IP addresses. The protocol's design was versatile enough to accommodate varying database structures and query languages used by different WHOIS servers, resulting in a more widespread and diverse WHOIS service.

In June 2010, ICANN initiated the first WHOIS Policy Review to review the extent to which ICANN's WHOIS policy and its implementation were effective, met the legitimate needs of law enforcement and promoted consumer trust.[11] In the course of the review, the SSAC published SAC051: SSAC Report on Domain Name WHOIS Terminology and Structure,[12] which highlighted important issues the SSAC found with domain name registration data and the WHOIS protocol.

The SSAC recommended that the ICANN community improve WHOIS terminology to enhance and disambiguate the overall discussion around domain name registration data and to replace the WHOIS protocol with a standards-based, structured, and extensible registration data access protocol to address various technical issues. The ICANN Board accepted the SAC051 recommendations in October 2011[13] and directed the ICANN organization to produce, in consultation with the ICANN community, a roadmap[14] for the coordination of the technical and policy discussions necessary to implement SAC051. The implementation of SAC051 directly led to the parallel development in ICANN and IETF of the Registration Data Access Protocol (RDAP) from 2012–2019.[15] Notably, this collaborative effort required work in both organizations due to the distinct objectives of the IETF and ICANN. The IETF is a technical body that makes voluntary standards that are often adopted by Internet users, network operators, and equipment vendors. Within this context, technical experts within IETF working groups outlined the protocol specifications for RDAP. However, the ICANN multistakeholder model facilitated the assembly of essential stakeholders through a policy development process (PDP) aimed at formulating a new consensus policy to replace the protocol. Unlike the voluntary standards of the IETF, a consensus policy ratified by the ICANN Board would be compulsory for registries and registrars to implement.

In 2012, the IETF chartered the WHOIS Enhanced Response and Data Sharing working group to develop RDAP as a successor to the WHOIS protocol. The purpose of upgrading from WHOIS to RDAP was to "retain the simple transactional nature of WHOIS, while providing a specification for queries and responses, redirection to authoritative sources, support for Internationalized Domain Names (IDNs), and support for localized registration data such as addresses and organization or person names." The working group focused on various aspects of RDAP development, such as defining the format and structure of the protocol, addressing authentication and authorization mechanisms, and considering deployment and implementation considerations. The working group worked collaboratively with various stakeholders, including registry operators, registrars, law enforcement agencies, and privacy advocates. In March 2015, the IETF published an

[9] See RFC 954: NICNAME/WHOIS, https://www.ietf.org/rfc/rfc954.txt
[10] See RFC 3912: WHOIS Protocol Specification, https://www.ietf.org/rfc/rfc3912.txt
[11] WHOIS Policy Review Team Final Report, May 2012, https://www.icann.org/en/system/files/files/final-report-11may12-en.pdf
[12] See SAC051: SSAC Report on Domain Name WHOIS Terminology and Structure, https://www.icann.org/en/system/files/files/sac-051-en.pdf
[13] See Approved Board Resolutions | Regular Meeting of the ICANN Board | Dakar | 28 October 2011, https://www.icann.org/en/board-activities-and-meetings/materials/approved-resolutions-regular-meeting-of-the-icann-board-dakar-28-10-2011-en#5
[14] See Roadmap to Implement SAC 051, 4 June 2012, https://www.icann.org/en/system/files/files/sac-051-roadmap-04jun12-en.pdf
[15] See Registration Data Access Protocol Timeline, https://www.icann.org/resources/pages/rdap-background-2018-08-31-en

initial set of RFCs (RFC7480,[16] RFC7481,[17] RFC7482,[18] RFC7483,[19] RFC7484,[20] and RFC7485)[21] to define RDAP. The work behind RFC 7480 accounted for SAC051 recommendations to create a better localized registration data standard, script flexibility, and higher quality information. In the 2013 New gTLD registry agreement, ICANN required registries to accept the following term regarding the updated RDAP:[22]

> *"Registry Operator shall implement a new standard supporting access to domain name registration data (SAC 051) no later than one hundred thirty-five (135) days after it is requested by ICANN if: 1) the IETF produces a standard (i.e., it is published, at least, as a Proposed Standard RFC as specified in RFC 2026); and 2) its implementation is commercially reasonable in the context of the overall operation of the registry."*[23]

As part of the implementation plan for SAC051,[24] the ICANN organization published a proposed draft of the RDAP operational profile in September 2015[25] for discussion with the ICANN community. In July 2016, the ICANN organization published a gTLD RDAP profile,[26] but the gTLD Registries Stakeholder Group (RySG) requested that the ICANN organization not use that profile and instead work together on a modified plan to implement RDAP. In August 2017, the RySG and the Registrar Stakeholder Group (RrSG) submitted a proposal to the ICANN organization to implement RDAP with a first phase in the form of an RDAP pilot.[27] One month later, the ICANN organization accepted the proposal and started the first phase of the pilot.[28]

RDAP development was also driven by external factors. The European Union's General Data Protection Regulation (GDPR) contained regulatory requirements related to data protection and privacy that would be difficult, if not impossible, to comply with only using the existing WHOIS protocol and services. When the ICANN Board adopted the Temporary Specification for gTLD Registration Data in May 2018 in response to GDPR, gTLD registries and registrars were required to implement an RDAP service within 135 days of a request by the ICANN organization, similar to the language in the 2013 New gTLD registry agreement above. The Temporary Specification also called for a gTLD RDAP Profile, service level agreements, and registry reporting requirements to be developed prior to RDAP deployment. As a result, gTLD registries and registrars were legally notified of the requirement to implement an RDAP service by August 26, 2019.

Throughout the development of RDAP, some stakeholders expressed concern about the cost and complexity of implementing RDAP, as well as the potential impact on the ability to conduct legitimate uses of registration data, such as law enforcement and intellectual property enforcement. There were also debates around the need for standardized profiles and operational requirements for RDAP, as well as the role of ICANN in overseeing and enforcing compliance with these requirements.[29]

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[16] See RFC 7480: HTTP Usage in the Registration Data Access Protocol (RDAP), https://www.ietf.org/rfc/rfc7480.txt
[17] See RFC 7481: Security Services for the Registration Data Access Protocol (RDAP), https://www.ietf.org/rfc/rfc7481.txt
[18] See RFC 7482: Registration Data Access Protocol (RDAP) Query Format, https://www.ietf.org/rfc/rfc7482.txt
[19] See RFC 7483: JSON Responses for the Registration Data Access Protocol (RDAP), https://www.ietf.org/rfc/rfc7483.txt
[20] See RFC 7484: Finding the Authoritative Registration Data (RDAP) Service, https://www.ietf.org/rfc/rfc7484.txt
[21] See RFC 7485: Inventory and Analysis of WHOIS Registration Objects, https://www.ietf.org/rfc/rfc7485.txt
[22] See New gTLD Agreement, https://newgtlds.icann.org/sites/default/files/agreement-approved-02jul13-en.pdf
[23] See New gTLD Agreement, https://newgtlds.icann.org/sites/default/files/agreement-approved-02jul13-en.pdf
[24] See Roadmap to Implement SAC051, 4 June 2012, https://www.icann.org/en/system/files/files/sac-051-roadmap-04jun12-en.pdf
[25] See Draft RDAP Operational Profile for gTLD Registries and Registrars, https://mm.icann.org/pipermail/gtld-tech/2015-September/000507.html
[26] See RDAP Operational Profile for gTLD Registries and Registrars, Version 1.0, 26 July 2016, https://www.icann.org/resources/pages/rdap-operational-profile-2016-07-26-en
[27] See Letter from Paul Diaz to Akram Atallah, 1 August 2017, https://www.icann.org/en/system/files/correspondence/diaz-to-atallah-01aug17-en.pdf
[28] See Letter from Akram Atallah to Paul Diaz, 1 September 2017, https://www.icann.org/en/system/files/correspondence/atallah-to-diaz-01sep17-en.pdf
[29] For supplemental listnening, watch or listen to the ICANN63 session on "Understanding RDAP and the Role It Can Play in RDDS Policy" to get an overview of how the ICANN community understood and responded to the development of RDAP. It would be beneficial to pay attention to the affiliations of each panelist and participant, noting the specific Supporting Organization (SO), Advisory Committee (AC), Stakeholder Group (SG), or Constituency (C) they represent. This information can provide insights into the diverse perspectives within the ICANN community regarding registration data.

RDAP was designed to address the limitations of the WHOIS protocol in terms of scalability, extensibility, and security. RDAP has a standardized format for responses, making it easier to parse and interpret data. RDAP supports multiple languages and character sets, making it more accessible to users around the world. RDAP also includes built-in mechanisms for authentication and access control, which makes it more secure than WHOIS. RDAP provides support for structured queries, allowing for more targeted and efficient searches. Finally, RDAP was designed to be extensible, meaning it can be adapted and updated to meet the evolving needs of the Internet community.

History of the ICANN authority over registration data and service

ICANN gained authority over gTLD registration data and registration data directory service (RDDS) gradually over time as the Internet and its role in technical Internet governance and coordination evolved.

As mentioned in 1.2, the WHOIS protocol dates back to 1982. ICANN was not established until 1998 to manage the Internet Assigned Numbers Authority (IANA) functions, which included the allocation of IP addresses and the management of the root zone file. At this point, ICANN did not have any authority over registration data. In 1999, ICANN began allowing other entities to offer domain name registration services. In 2001, ICANN signed the first Registrar Accreditation Agreement (RAA) with domain name registrars, which included provisions related to WHOIS data collection, storage, and dissemination.[30] The 2001 RAA required registrars to "provide an interactive web page and port 43 WHOIS service providing free public query-based access to up-to-date data concerning all Registered Names sponsored by Registrar for each TLD in which it is accredited." The 2001 RAA also required registrars to abide by any ICANN specification or policy established as Consensus Policy from the ICANN community that would require registrars to "cooperatively implement a distributed capability that provides query-based WHOIS search functionality across all registrars." This data elements listed in the contract included:[31]

- The name of the Registered Name;
- The names of the primary nameserver and secondary nameserver(s) for the Registered Name;
- The identity of Registrar (which may be provided through Registrar's website);
- The original creation date of the registration;
- The expiration date of the registration;
- The name and postal address of the Registered Name Holder;
- The name, postal address, e-mail address, voice telephone number, and (where available) fax number of the technical contact for the Registered Name; and
- The name, postal address, e-mail address, voice telephone number, and (where available) fax number of the administrative contact for the Registered Name.

[30] See Registrar Accreditation Agreement, 17 May 2001, https://www.icann.org/resources/unthemed-pages/raa-2001-05-17-en

[31] See Section 3.3 Public Access to Data on Registered Names, Registrar Accreditation Agreement, 17 May 2001, https://www.icann.org/resources/unthemed-pages/raa-2001-05-17-en

In 2002, the ICANN Board approved new bylaws[32] which, among other things, replaced the original Domain Name Supporting Organization (DNSO) with the Generic Name Supporting Organization. The DNSO was originally set up as an advisory body to the ICANN Board. The GNSO was established as a policy development body responsible for recommending policies relating to gTLDs to the ICANN Board. The GNSO has since been the home for Consensus Policy development related to domain name registration data and RDDS. The GNSO Council charters policy development processes (PDPs). PDP working groups prepare reports with policy recommendations for the GNSO Council to approve and forward to the ICANN Board for consideration. The ICANN Board is responsible for reviewing the policy recommendations approved by the GNSO Council and then accepting or rejecting the recommendations. Accepted recommendations are typically implemented as ICANN Consensus Policies that apply to gTLD registries and registrars per their registry agreements or registrar accreditation agreements with ICANN.

In 2009, ICANN signed an Affirmation of Commitments[33] with the U.S. Department of Commerce to institutionalize and memorialize the global technical coordination of the domain name and addressing system by a private sector-led organization. The affirmation includes commitments to:

- Ensure that decisions made related to the global technical coordination of the DNS are made in the public interest and are accountable and transparent;
- Preserve the security, stability and resiliency of the DNS;
- Promote competition, consumer trust, and consumer choice in the DNS marketplace;
- Facilitate international participation in DNS technical coordination.

Included in the affirmation is an ICANN commitment to evolve and adapt to fulfill its limited, but important technical mission of coordinating the DNS, including:

> *9.3.1 ICANN additionally commits to enforcing its existing policy relating to WHOIS, subject to applicable laws.* ***Such existing policy requires that ICANN implement measures to maintain timely, unrestricted and public access to accurate and complete WHOIS information, including registrant, technical, billing, and administrative contact information.*** *One year from the effective date of this document and then no less frequently than every three years thereafter, ICANN will organize a review of WHOIS policy and its implementation to assess the extent to which WHOIS policy is effective and its implementation meets the legitimate needs of law enforcement and promotes consumer trust. The review will be performed by volunteer community members and the review team will be constituted and published for public comment, and will include the following (or their designated nominees): the Chair of the G[overnmental] A[dvisory] C[ommittee], the [President and] C[hief] E[xecutive] O[fficer] of ICANN, representatives of the relevant Advisory Committees and Supporting Organizations, as well as experts, and representatives of the global law enforcement community, and global privacy experts. Composition of the review team will be agreed jointly by the Chair of the GAC (in consultation with GAC members) and the CEO of ICANN. Resulting recommendations of the reviews will be provided to the Board and posted for public comment. The Board will take action within six months of receipt of the recommendations.*

Although the relationship between the U.S. Department of Commerce and ICANN ceased after the transfer of oversight of the IANA functions from the U.S. government to the global multistakeholder community in 2016, the Affirmation of Commitments in 2009 demonstrates the authority ICANN had over enforcing RDDS requirements in its contracts.

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[32] See Bylaws for Internet Corporation for Assigned Names and Numbers, A California Nonprofit Public-Benefit Corporation, as adopted effective 15 December 2002, https://www.icann.org/resources/unthemed-pages/bylaws-2002-12-15-en#X

[33] See AFFIRMATION OF COMMITMENTS BY THE UNITED STATES DEPARTMENT OF COMMERCE AND THE INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS, https://www.icann.org/resources/pages/affirmation-of-commitments-2009-09-30-en

3

ICANN Policies and Developments Related to Domain Name Registration Data **(2003-2015)**

ICANN specifies RDDS requirements for generic top-level domains (gTLDs) through the Registry Agreement (RA) and Registrar Accreditation Agreement (RAA). These agreements set up the basic framework that dictates how the RDDS is operated. Pursuant to the RA and RAA, gTLD registry operators and registrars must also comply with ICANN Consensus Policies developed through the Generic Names Supporting Organization (GNSO). This section provides an overview of the major updates to domain name registration data-related policies from 2001–2016.

During this period, ICANN faced a growing number of concerns related to the misuse of registration data, including spamming, phishing, and other types of malicious activity. As a result, ICANN implemented several policies designed to increase the accuracy and completeness of registration data, as well as to protect the privacy of registrants. However, these policies were not without controversy, with some stakeholders arguing that they were overly burdensome and impeded legitimate uses of registration data.

WHOIS Task Force

In response to growing concern within the Internet community about the reliability and accuracy of WHOIS data, the DNSO Names Council formed the WHOIS Task Force[34] to develop policy recommendations for improving the accuracy and reliability of WHOIS data, as well as protecting the privacy of individuals whose information is included in WHOIS. The WHOIS Task Force's efforts yielded several significant consensus policies that addressed specific aspects of domain registration data management. These policies aimed to enhance accuracy, transparency, and marketing practices within the domain name ecosystem.

The task force made different recommendations[35] that resulted in three new Consensus Policies:

- **WHOIS Data Reminder Policy**: The WHOIS Data Reminder Policy mandated that registrars present registrants with their current WHOIS information at least annually. This reminder underscored the importance of accurate data provision and included a warning about potential domain name registration cancellation due to the submission of false WHOIS information. All ICANN-accredited registrars were required to implement the WHOIS Data Reminder Policy.
- **Restored Name Accuracy Policy**: The Restored Name Accuracy Policy provided registrars with the ability to cancel domain name registrations under specific circumstances, such as inaccurate data provision or non-response to registrar inquiries. This policy introduced a process where restored domain names were placed under Registrar Hold status until registrants updated their WHOIS information accurately. This policy aimed to maintain data integrity and improve the accuracy of registration records.
- **WHOIS Marketing Restriction Policy**: The WHOIS Marketing Restriction Policy addressed third-party bulk access to domain registration data. This policy incorporated revisions to the RAA to ensure that third parties accessing registration data were prohibited from engaging in various marketing activities. The policy mandated restrictions on the use, sale, and redistribution of bulk data, reinforcing the protection of registrant data privacy.

[34] See [council] NCtelecon, 8 February, minutes for validation by the NC, http://www.dnso.org/clubpublic/council/Arc04/msg00812.html
[35] See Final Report of the GNSO Council WHOIS Task Force, http://www.dnso.org/dnso/notes/20030219.WhoisTF-accuracy-and-bulkaccess.html

Inter-Registrar Transfer Policy Development Process

The Inter-Registrar Transfer Policy (IRTP), updated in 2016 and renamed the Transfer Policy,[36] outlined the requirements and procedure for a domain name owner to transfer from one registrar to another. The IRTP Working Group split the WHOIS Task Force recommendations into five policy development processes (PDPs).[37] Recommendations from two of these PDPs[38] led to the creation of the Additional WHOIS Information Policy (AWIP). In addition, the Thick WHOIS PDP resulted in two additional Consensus Policies, the Thick WHOIS Transition Policy for .COM, .NET and .JOBS, and the Registry Registration Data Directory Services Consistent Labeling and Display Policy.

ADDITIONAL WHOIS INFORMATION POLICY

The AWIP resulted from recommendations from two different Transfer Policy PDPs.

- ***IRTP-B Recommendation #8****: The WG recommends standardizing and clarifying WHOIS status messages regarding Registrar Lock status. The goal of these changes is to clarify why the Lock has been applied and how it can be changed. Based on discussions with technical experts, the WG does not expect that such a standardization and clarification of WHOIS status messages would require significant investment or changes at the registry/registrar level. The WG recommends that ICANN staff is asked to develop an implementation plan for community consideration which ensures that a technically feasible approach is developed to implement this recommendation.*
- ***IRTP-C Recommendation #3****: The WG recommends that all gTLD Registry Operators be required to publish the Registrar of Record's IANA ID in the TLD's WHOIS. Existing gTLD Registry operators that currently use proprietary IDs can continue to do so, but they must also publish the Registrar of Record's IANA ID. This recommendation should not prevent the use of proprietary IDs by gTLD Registry Operators for other purposes, as long as the Registrar of Record's IANA ID is also published in the TLD's WHOIS.*

The resulting AWIP requires registrars and registries to include specific information in their WHOIS output to facilitate the identification of a registration's sponsoring registrar and improve the understanding of registration status codes. It mandates the use of Extensible Provisioning Protocol (EPP) status codes[39] for registration statuses, the provision of links to ICANN web pages describing and defining these codes, and the inclusion of a standardized message directing users to more information on WHOIS status codes. Additionally, registries are required to include the ICANN-issued Globally Unique Registrar Identification number (GURID or IANA ID) in their WHOIS output, enhancing consistency and clarity in registrar identification.

Thick WHOIS

As of 2012, Registries satisfied their WHOIS obligations under two different models, often characterized as "thin" and "thick" WHOIS registries. This description is based on how the two distinct sets of data are maintained.

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[36] The Inter-Registrar Transfer Policy (IRTP) was the term used within ICANN from 2003–2016. Since 2016, the policy has been referred to as the "Transfer Policy." When the IRTP was updated to the Transfer Policy, requirements were added concerning inter-registrant transfers as well.

[37] See INTER-REGISTRAR TRANSFER POLICY ISSUES - PDP Recommendations - 19 Mar 08, https://gnso.icann.org/sites/default/files/filefield_6381/transfer-wg-recommendations-pdp-groupings-19mar08.pdf

[38] The two relevant PDPs were IRTP-B: Undoing Registrar Transfers and IRTP-C: IRTP Operational Rule Enhancements.

[39] See EPP Status Codes | What Do They Mean, and Why Should I Know? https://www.icann.org/resources/pages/epp-status-codes-2014-06-16-en

- **Thin registries** stored and managed only the information associated with the domain name, such as the sponsoring registrar, registration status, creation and expiration dates, name server data, last update, and the registrar's WHOIS service URL. Registrars managed the second set of data associated with the registrant and provided it through their own WHOIS services.
- **Thick registries** maintained and provided both the domain name and registrant data from the registrar and published that data through WHOIS.

THICK WHOIS PDP

In March 2012, the GNSO initiated the Thick WHOIS PDP[40] to consider a possible requirement of thick WHOIS for all gTLDs as a direct response to IRTP-B Recommendation #3.[41] In its Final Report, the Thick WHOIS PDP recommended the provision of thick WHOIS services, with a consistent labeling and display, should become a requirement for all gTLD registries, both existing and future.

This implementation of the transition to Thick WHOIS was a complex and time-intensive effort. The magnitude of this transition's scope encompassed not only a vast number of domain names but also required rigorous legal assessments[42] to ascertain compliance with all pertinent laws and regulations. The Final Report included implementation guidance that stated the transition of existing thin registries to the thick model should not unnecessarily delay the consistent labeling and display of data. As a consequence, ICANN staff and the Implementation Review Team (IRT) agreed that the two components of the accepted policy recommendation could be decoupled. Ultimately, implementation of the thick WHOIS policy recommendation produced two new policies, the "Thick WHOIS Transition Policy for .COM, .NET and .JOBS." and the "Registry Registration Data Directory Services Consistent Labeling and Display Policy."

THICK WHOIS TRANSITION POLICY FOR .COM, .NET AND .JOBS

The Thick WHOIS Transition Policy for .COM, .NET, and .JOBS was introduced on 1 February 2017, requiring Thick WHOIS data for new registrations by 1 May 2018 and transitioning existing data by 1 February 2019.[43] While all other registries had contractual requirements to provide Thick WHOIS data, .COM, .NET, and .JOBS were not initially governed by Thick WHOIS data requirements which necessitated the development of a transition policy. Despite initial readiness, discussions with registrars over contractual changes and concerns about compliance with applicable data protection laws, such as the European Union General Data Protection Regulation, led to deadline extensions. The final implementation dates became: 30 November 2018 for accepting Thick WHOIS data from registrars, 30 April 2019 for sending Thick WHOIS data for new registrations, and 31 January 2020 for full registrar transition. On 7 November 2019, the ICANN Board deferred compliance enforcement[44] pending the completion of three conditions:

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[40] See GNSO Council Resolutions 1999–2019, Resolution 20120314-1, https://gnso.icann.org/en/council/resolutions/1999-2019#20120314-1

[41] See Final Report on the Inter-Registrar Transfer Policy - Part B Policy Development Process, 30 May 2011, https://gnso.icann.org/sites/default/files/filefield_24721/irtp-b-final-report-30may11-en.pdf

[42] See Review of Law Applicable to the Transition of Data from a Thin to Thick Whois Model, 8 June 2015, https://mm.icann.org/pipermail/gnso-impl-thickwhois-rt/attachments/20150609/6975c137/ICANNMemorandumtotheIRT-ThintoThickWHOISTransition_Final_2015-06-08-0001.pdf

[43] See Thick WHOIS Transition Policy for .COM, .NET and .JOBS, https://www.icann.org/resources/pages/thick-whois-transition-policy-2017-02-01-en

[44] See Approved Board Resolutions | Regular Meeting of the ICANN Board | 7 November 2019, Deferral of Compliance Enforcement of Thick WHOIS Consensus Policy, https://www.icann.org/en/board-activities-and-meetings/materials/approved-resolutions-regular-meeting-of-the-icann-board-07-11-2019-en#1.i

- The gTLD Registration Data Policy Implementation Review Team (IRT) completes its review and establishes an implementation timeline estimate of the Expedited Policy Development Process (EPDP) Team's recommendations as adopted by the ICANN Board on 15 May 2019;
- The ICANN organization and the IRT provide the GNSO Council with the required information on the impacts of the EPDP Team's recommendations on existing policies and procedures (including the Thick WHOIS Transition Policy); and
- The GNSO Council makes a determination on whether to take action on updates to relevant policies and procedures (which could include additional policy work, guidance, or other actions to be determined) impacting the Thick WHOIS Transition Policy.

For the avoidance of doubt, the Thick WHOIS Transition Policy for .COM .NET and .JOBS has been in effect since February 2019. However, the November 2019 ICANN Board resolution deferring compliance enforcement action resulted in a situation where the practical implementation of transitioning the .COM, .NET. and .JOBS registries to Thick WHOIS has been postponed.

REGISTRY REGISTRATION DATA DIRECTORY SERVICES CONSISTENT LABELING AND DISPLAY POLICY

The Registry Registration Data Directory Services (RDDS) Consistent Labeling and Display (CL&D) Policy[45] provides guidelines for how domain name registration data is displayed and labeled in the WHOIS directory services. The CL&D specifications included various reordering of fields and reformatting of data to be consistent with Specification 3 of the 2013 RAA and the addition of Registrar Abuse Contact Email and Phone. The policy also included a requirement for the addition of Registrar Registration Expiration Date and Reseller Information within 180 days following publication by the IETF of relevant Extensible Provisioning Protocol (EPP) extensions.

The policy was initially introduced on 26 July 2016, requiring the implementation of an RDAP service in accordance with the RDAP Operational Profile for all gTLD registries to ensure consistent labeling and display. However, on 9 August 2016, the RySG filed a Request for Reconsideration[46] against this policy. In response, ICANN revoked the original policy and initiated a Public Comment proceeding[47] for a revised version. An updated policy was announced on 1 February 2017 and took effect on 1 August 2017. Notably, the revised policy no longer mentioned RDAP, and as a result, the RySG Request for Reconsideration was withdrawn on 6 October 2017.[48]

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[45] See Registry Registration Data Directory Services Consistent Labeling and Display Policy, https://www.icann.org/resources/pages/rdds-labeling-policy-2017-02-01-en

[46] See Reconsideration Request, https://www.icann.org/en/system/files/files/reconsideration-16-10-rysg-request-redacted-09aug16-en.pdf

[47] See Revised Proposed Implementation of GNSO Thick Whois Consensus Policy Requiring Consistent Labeling and Display of RDDS (Whois) Output for All gTLDs, https://www.icann.org/en/public-comment/proceeding/revised-proposed-implementation-of-gnso-thick-whois-consensus-policy-requiring-consistent-labeling-and-display-of-rdds-whois-output-for-all-gtlds-21-10-2016

[48] See 2016 Reconsideration Requests – Status Update – 6 Oct 2017, https://www.icann.org/en/system/files/files/reconsideration-requests-status-2016-06oct17-en.pdf

Translation and Transliteration of Contact Information Policy

In 2009, the SSAC published SAC037: Display and Usage of Internationalized Registration Data.[49] SAC037 addressed the display and usage of internationalized registration data in domain name WHOIS records. SAC037 highlighted the challenges and considerations associated with non-American Standard Code for Information Interchange (ASCII) characters in domain names and contact information, emphasizing the need for accurate representation and accessibility.[50] In response to SAC037, the ICANN Board convened the non-PDP SSAC-GNSO Internationalized Registration Data Working Group (IRD-WG) in June 2009 which ultimately recommended initiating the Translation and Transliteration of Contact Information PDP in 2013.[51] Similarly, the WHOIS Policy Review Final Report from May 2012 also recommended setting up a working group within ICANN to determine appropriate internationalized domain name registration data requirements, including any requirements for the translation or transliteration of the registration data.

The Translation and Transliteration of Contact Information working group was tasked to decide whether it is necessary to transform contact details to a common language/script and who should bear the responsibility. They made seven policy recommendations:

1. Transformation should not be mandatory; parties needing it can do it voluntarily or request it.
2. Non-ASCII script contact info in a replacement system should be clear in representation.
3. Language/script for submission should align with gTLD provider models.
4. Data consistency standards should be upheld regardless of language/script.
5. Transformed data should be presented as additional fields, marked and sourced.
6. Replacement systems should be adaptable for new scripts/languages.
7. Recommendations should be coordinated with other modifications and implemented when a new system is operational.

The ICANN Board accepted the recommendations[52] and the Translation and Transliteration of Contact Information Implementation Review Team (IRT) was formed in July 2016. However, implementation has been on hold pending full deployment of the RDAP, which is a minimum requirement to implement the translation and translation of contact information recommendations.[53]

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[49] See SAC037: Display and usage of Internationalized Registration Data, https://www.icann.org/en/system/files/files/sac-037-en.pdf

[50] SAC037 references two other SSAC reports in SAC033. SAC027: Comment to GNSO regarding WHOIS Studies, https://www.icann.org/en/groups/ssac/documents/sac-027-en.pdf. SAC033: Domain Name Registration Records and Directory Services, https://www.icann.org/en/groups/ssac/documents/sac-033-en.pdf.

[51] See GNSO Council Resolutions 1999–2019, Resolution 20130613-2, the GNSO Council resolved to Initiate a Policy Development Process (PDP) on the Translation and Transliteration of Contact Information https://gnso.icann.org/en/council/resolutions/1999-2019#20130613-2

[52] See Approved Board Resolutions | Regular Meeting of the ICANN Board | 28 September 2015, GNSO Council Recommendations Translation and Transliteration of Contact Information, https://www.icann.org/en/board-activities-and-meetings/materials/approved-resolutions-regular-meeting-of-the-icann-board-28-09-2015-en#1.b

[53] For updates from the Translation and Transliteration of Contact Information IRT, see Implementing Policy at ICANN: Implementation Projects On Hold for the latest update on the IRT, https://www.icann.org/policy/implementation

Privacy and Proxy Services Accreditation Issues Policy Development Process

Privacy and proxy services are offered by domain name registrars and third-party providers to allow domain name registrants to keep their personal information private in WHOIS records. A privacy service allows domain name registration in the registrant's name, but all other contact details displayed in the publicly accessible RDDS are those given by the privacy service provider, not by the registrant. A proxy service allows the registered name holder to license the use of the domain to a customer who actually uses the domain, while contact information displayed in the RDDS system is that of the proxy service provider. This made it more difficult for third parties, such as law enforcement or intellectual property enforcement, to access accurate contact information for domain name registrants.

During the negotiations of the 2013 Registrar Accreditation Agreement (RAA),[54] privacy and proxy services emerged as a significant topic of discussion.[55] There were concerns about the potential misuse of these services, particularly in cases involving illegal activities, trademark infringement, or intellectual property violations. At the same time, there was recognition of the legitimate need for privacy protection for domain name registrants. To address these concerns and strike a balance between privacy and accountability, the GNSO chartered a PDP on privacy and proxy services accreditation issues to examine the accreditation and use of privacy and proxy services within the domain name registration process.[56]

The issues addressed in the Privacy and Proxy Services Accreditation Issues PDP included the accreditation process for privacy and proxy service providers, disclosure requirements for accurate and valid WHOIS data, mechanisms to address misuse of privacy and proxy services, and the establishment of safeguards and accountability measures to prevent abuse. To encompass a comprehensive range of perspectives and insights from diverse individuals and community groups, the working group solicited input at the outset of the process. The working group received input from the Business Constituency, the Intellectual Property Constituency, the Non-Commercial Stakeholder Group, the At-Large Advisory Committee, and the Internet Service Providers and Connectivity Providers Constituency. The final working group recommendations aimed to "provide a sound basis for the development and implementation of an accreditation framework" that would "substantially improve the current environment."[57]

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[54] See 2013 Registrar Accreditation Agreement, https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en

[55] See Report on the Conclusion of the 2013 Registrar Accreditation Agreement Negotiations, 16 September 2013, https://gnso.icann.org/sites/default/files/filefield_41795/negotiations-conclusion-16sep13-en.pdf

[56] See GNSO Council Resolutions 1999–2019, Resolution 20131031-3, Approval of a charter for the Privacy Proxy Services Accreditation PDP WG, https://gnso.icann.org/en/council/resolutions/1999-2019#20131031-3

[57] See Final Report on the Privacy and Proxy Services Accreditation Issues Policy Development Process, 7 December 2015, https://gnso.icann.org/sites/default/files/filefield_48305/ppsai-final-07dec15-en.pdf

Category	Summary of Category	Summary of WG Recommendations
A: Main Issues	• Adoption of Standard Service Practices • Distinguishing between privacy/proxy services • Evaluating the effects of the 2013 RAA requirements • Determining contractual obligations	• Privacy/proxy services should be treated the same way for the purpose of the accreditation process.
B: Maintenance of privacy/proxy services	• Labeling WHOIS entries • Periodic checks on customer contact information accuracy • Clarifying rights and responsibilities of registrants • Applying transfer and renewal policies.	• Domain name registrations involving privacy/proxy service providers should be clearly labeled in WHOIS. • Privacy/proxy service providers should validate and verify customer contact information in accordance with WHOIS Accuracy Program Specification. • Rights, responsibilities, and obligations for registrants and privacy/proxy service providers should be clearly communicated in the registration agreement.
C: Registration of privacy/proxy services	• Changes to service availability • Distinguishing commercial and personal purposes • Extending services to non-commercial organizations • Data field display requirements for commercial purposes.	• Privacy/proxy services should be available to all registrants, irrespective of their status as commercial or non-commercial organizations or individuals. • There should be no differentiation in data fields displayed based on the purpose of domain name registration or the registrant's status.
D: Provision of contact point by a privacy/proxy service	• Contactability • Abuse reporting contacts • Full WHOIS contact details • Forms of alleged malicious conduct covered by designated points of contact.	• ICANN should maintain a list of accredited privacy/proxy service providers with contact information. • Privacy/proxy service providers should have a designated point of contact for abuse reporting. • Privacy/proxy service providers should provide full contact details on their websites. • Designated point of contact for abuse reporting determines requirements for which forms of alleged malicious conduct would be covered • Minimum criteria for submitting abuse reports and information requests should be developed.

Category	Summary of Category	Summary of WG Recommendations
E: Relay of communications to a privacy/proxy service customer	• Standardized relay processes • Forwarding allegations of illegal activities • Format and identity considerations • Compliance with requests in different jurisdictions.	• Electronic communications required by the RAA and ICANN Consensus Policies should be relayed. • Accredited privacy/proxy service providers may choose to relay all electronic requests or only those related to allegations of domain name abuse. • Privacy/proxy service providers should maintain a mechanism for requesters to follow up on or escalate their requests.
F: Reveal of a privacy/proxy customer's identity or contact details in WHOIS	• Minimum standardized reveal processes • Conditions for revealing customer identities • Evidentiary standards for alleged conduct triggering a reveal • Safeguards and limitations on revealed data.	• Baseline minimum standardized reveal processes should be adopted by privacy/proxy service providers. • Providers may disclose customer identities for the purpose of serving cease and desist letters. • Specific alleged violations of the provider's terms of service may warrant publication of registrant/owner's contact information. • Safeguards should be in place to protect privacy and freedom of expression. • Access to registrant data by law enforcement agencies should be regulated with clear, enforceable processes.
G: Termination [and de-accreditation] of privacy/proxy services	• Service coverage, non-compliance leading to cancellation or suspension • Dispute resolution • Appeal mechanisms for provider accreditation	• Privacy/proxy service customers should be notified in advance of de-accreditation of a privacy/proxy service provider. • Each step in the de-accreditation process should be designed so as to minimize the risk that a customer's personally identifiable information is made public.

The ICANN Board accepted the PDP final report and directed its implementation in August 2016.[58] However, access to personal data in WHOIS was significantly restricted after May 2018 when the European Union's General Data Protection Regulation (GDPR) came into effect. The GNSO initiated the Expedited Policy Development Process (EPDP) on the Temporary Specification (TempSpec) for gTLD Registration Data to develop a long-term policy for the handling of gTLD registration data in light of the GDPR. Implementation of the Privacy and Proxy Services Accreditation Issues PDP recommendations was put on hold in September 2019 until the EPDP-TempSpec Team could complete all of its relevant work. As of May 2023, the ICANN organization is conducting preliminary research to determine when to best re-launch the Privacy and Proxy Services Accreditation Issues IRT.[59] The completion of the EPDP-TempSpec Phase 1 implementation remains a dependency before the IRT can restart its work.[60]

[58] See Approved Board Resolutions | Special Meeting of the ICANN Board | 9 August 2016, GNSO Policy Recommendations on Privacy and Proxy Services Accreditation, https://www.icann.org/en/board-activities-and-meetings/materials/approved-resolutions-special-meeting-of-the-icann-board-09-08-2016-en#2.e

[59] See Privacy and Proxy Services Accreditation Implementation Update, 15 May 2023, https://www.icann.org/en/system/files/files/privacy-proxy-services-accreditation-15may23-en.pdf

[60] See Privacy and Proxy Services Accreditation Implementation Update, 15 May 2023, https://www.icann.org/en/system/files/files/privacy-proxy-services-accreditation-15may23-en.pdf

4

Temporary Specification for gTLD Registration Data

ICANN created the Temporary Specification for gTLD Registration Data (Temporary Specification, or TempSpec) in response to the European Union's (EU) General Data Protection Regulation (GDPR), which came into effect in May 2018. The GDPR is a comprehensive data protection law that applies to the processing of personal data within or that originates in the EU, regardless of where that data processing occurs. Under the GDPR, personal data must be processed in a way that is fair, transparent, and respects the rights of data subjects. This led to concerns that ICANN requirements for registry operators and registrars to publish registrant data in their Registration Data Directory Services (RDDS) may not be compliant with the GDPR.

To address these concerns, ICANN developed the Temporary Specification, which provided a framework for the collection, processing, and publication of domain name registration data in a way that is consistent with the GDPR. The Temporary Specification limited the amount of personal data that was required to be published in WHOIS, and restricted access to nonpublic domain name registration data. The Temporary Specification was intended to be an interim measure while ICANN worked to develop a more permanent solution for the management of domain name registration data in the context of the GDPR.

General Data Protection Regulation (GDPR)

On 25 January 2012, the European Commission of the European Union (EU) delivered a "Proposal for a Regulation of the European Parliament and of the Council on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation)."[61] After four years of drafts, debate, and negotiation, the General Data Protection Regulation (GDPR) was adopted by the European Parliament and went into effect on 14 April 2016. Organizations worldwide had two years to achieve GDPR compliance until the GDPR became enforceable on 25 May 2018.

This regulation became the most comprehensive and influential globally concerning digital privacy and data protection, with explicit goals to "enhance data protection rights of individuals and to improve business opportunities by facilitating the free flow of personal data in the digital single market."[62] The GDPR has a broader territorial scope than this "digital single market." Indeed, on top of applying to the processing of personal data within the EU, it also applies to organizations outside the EU that process the personal data of individuals within the EU in connection with offering goods or services, monitoring their behavior, or through certain international agreements. In practice, this covers almost every major part and service provided on the Internet, including ICANN and the availability of domain name registration data through Registration Data Directory Services (RDDS).

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[61] See Document 52012PC0011, Proposal for a REGULATION OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on the protection of individuals with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation), https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=celex%3A52012PC0011

[62] See Council of the European Union document no. 9565/15, adopted as its "General Approach," http://data.consilium.europa.eu/doc/document/ST-9565-2015-INIT/en/pdf

The GDPR defines the term 'personal data' in Chapter 1, Article 2,[63]

> *'personal data' means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person.*

On an individual level, GDPR enables Internet users to maintain greater control over their personal data. On an operator/firm level, GDPR requires operators to, among other things, have a legal basis for the processing of personal data, inform individuals about the purpose of processing of their personal data, ensure to only collect and process personal data that is necessary for the stated purpose and implement security measures to protect that data.

ICANN's Response to GDPR

Although domain name registration data is decentralized, meaning it is held by individual registry operators and registrars rather than in one central database, ICANN performs the role of coordinating the development and implementation of policy and contractual requirements for registry operators and registrars concerning their collection, storage, publication, disclosure, and escrow of that data. Multiple teams in ICANN followed the EU GDPR developments and engaged with the European Data Protection Board in order to gain clarity on GDPR's effects on WHOIS.[64]

While ICANN recognizes the importance of privacy and data protection, it also recognizes the value of maintaining a transparent and accessible WHOIS system for various legitimate purposes such as law enforcement, intellectual property rights enforcement, and cybersecurity. ICANN requested[65] European national supervisory authorities grant a moratorium on enforcement of GDPR while ICANN continued to incorporate recommendations[66] from the Article 29 Data Protection Working Party (WP29) into a new WHOIS model that would be GDPR compliant. ICANN also expressed concerns that a fragmented WHOIS would have the following negative consequences:[67]

- Hinder the ability of law enforcement around the world to get important information.
- Protect the identity of criminals who may register hundreds of domain names specifically for use in cyberattacks.
- Hamper the ability of consumer protection agencies who track the traffic patterns of illicit businesses.
- Stymie trademark holders from protecting intellectual property.
- Make it significantly harder to identify disinformation and impact the ability to take action against bad actors.

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[63] See REGULATION (EU) 2016/679 OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL, Chapter 1, Article 2, Material scope, https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:32016R0679&from=EN#d1e1404-1-1

[64] See the 2018 2018 Data Protection/Privacy Correspondence Page, https://www.icann.org/resources/pages/data-protection-correspondence-2018

[65] See Letters from Göran Marby to Giovanni Buttarelli, et al, 26 March 2018, https://www.icann.org/resources/pages/correspondence-2018

[66] See ICANN Receives Data Protection/Privacy Guidance from Article 29 Working Party, 12 April 2018, https://www.icann.org/en/announcements/details/icann-receives-data-protectionprivacy-guidance-from-article-29-working-party-12-4-2018-en

[67] See Letter from Göran Marby to Andrea Jelinek, 12 April 2018, https://www.icann.org/en/system/files/correspondence/marby-to-jelinek-12apr18-en.pdf

In response to ICANN's request, the European Data Protection Board rejected the idea of an enforcement moratorium, stating[68]

> *The GDPR does not allow national supervisory authorities nor the European Data Protection Board (the WP29 will become the EDPB on 25 May 2018) to create an "enforcement moratorium" for individual data controllers. Data protection is a fundamental right of individuals, who may submit complaints to their national data protection authority whenever they consider that their rights under the GDPR have been violated. Data protection authorities may, however, take into consideration the measures which have already been taken or which are underway when determining the appropriate regulatory response upon receiving such complaints.*

Therefore, ICANN needed to find a solution that would satisfy both the regulatory requirements for data protection and the need for public access to certain domain registration data, striking a balance between the two conflicting interests. Going through a typical policy development process (PDP) or even an expedited PDP (EPDP) in the GNSO, which is the ICANN Supporting Organization charged with developing policy for gTLDs, could take many years, which would not have been feasible with the two-year deadline approaching. ICANN's available process was a temporary specification, which would provide a temporary, unified solution to gain compliance with the GDPR and automatically trigger a review by the GNSO to develop the temporary specification as a Consensus Policy or an alternative policy at the time of publication. Temporary specifications require reauthorization every 90 days until the GNSO has developed a final policy.

Temporary Specification for gTLD Registration Data

As the coordinator of the WHOIS requirements for registry operators and registrars, ICANN faced the challenge of balancing GDPR compliance with maintaining access to registration data to the greatest extent possible. The ICANN Bylaws require that

> *Subject to applicable laws, ICANN shall use commercially reasonable efforts to enforce its policies relating to registration directory services and shall work with Supporting Organizations and Advisory Committees to explore structural changes to improve accuracy and access to generic top-level domain registration data, as well as consider safeguards for protecting such data.*[69]

Therefore, ICANN aimed to find a solution that would strike that balance prior to the enforcement date of GDPR, which required a great deal of work in a short period of time. After GDPR was published, ICANN retained the services of European Law Firm Hamilton Advokatbyrå (Hamilton) in 2017 to provide an independent assessment of the legal challenges that the GDPR poses in relation to the registration data directory services.[70] The memoranda from Hamilton provided a base framework for the future of domain name registration data and concluded that WHOIS would have to change to comply with GDPR, responded to ICANN community questions about GDPR, and provided examples of how WHOIS services may change to comply with the GDPR.[71]

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[68] See The European Data Protection Board endorsed the statement of the WP29 on ICANN/WHOIS, 27 May 2018, https://edpb.europa.eu/news/news/2018/european-data-protection-board-endorsed-statement-wp29-icannwhois_en.

[69] See Bylaws for Internet Corporation for Assigned Names and Numbers | A California Nonprofit Public-Benefit Corporation, As amended 22 July 2017, Section 4.6. Specific Reviews, (e) Registration Directory Service Review, https://www.icann.org/resources/pages/bylaws-2017-07-25-en#article4

[70] See Data Protection and Privacy: Progress Update and Next Steps, 11 September 2017, https://www.icann.org/en/blogs/details/data-protection-and-privacy-progress-update-and-next-steps-11-9-2017-en

[71] See Legal Analyses, Proposed Compliance Models, & Community Feedback, GDPR Legal Analysis Memoranda, https://www.icann.org/resources/pages/gdpr-legal-analysis-2017-11-17-en#memoranda

Leading up to the GDPR enforcement date, registries and registrars were concerned[72] about violating their contractual agreements with ICANN that require the public availability of registrant data.[73,74] ICANN Contractual Compliance stated in November 2017 that it would not take action for non-compliance and asked registrars and registries to start thinking about GDPR compliance.[75] Specific conditions were outlined for eligibility. Contracted parties intending to deviate from their existing obligations needed to share their models with ICANN. The models were expected to reasonably accommodate existing obligations and the GDPR, accompanied by an explanation of how it reconciled the two. ICANN Contractual Compliance would not defer enforcement if a party submitted a model that involved abandoning WHOIS obligations. Using this statement and initial examples from Hamilton, the ICANN community drafted some potential models.[76] ICANN was the next to expand on these efforts. Building on the ICANN community models and insight gained through briefs and research, ICANN published three potential models for discussion in January 2018, less than half a year before GDPR would go into effect.[77]

After Public Comment, ICANN published the Proposed Interim GDPR Compliance Model on 28 February 2018.[78] This singular model addressed:

- The purposes of collection and publication of gTLD registration data
- The legal bases for the processing of personal data within gTLD registration data
- A list of data elements that the registrars were required to collect from registrants
- Which parts of the registrant data must be transferred from the registrar to the registry operator
- Which data must be transferred from the contracted parties to escrow agents
- How long the registrant data must be retained
- The requirements for public access and publication of gTLD registration data
- The requirements for registry operators' and registrars' provision of access to nonpublic registration data to third parties

A week after publishing the proposed model, ICANN published an expanded version of the proposed model on 8 March 2018. A lengthier document than those preceding it, it included legal analysis of the model and provided the next steps for ICANN and the ICANN community for compliance. The model was then adapted into proper contractual format and became the Temporary Specification for gTLD Registration Data,[79] commonly referred to as the Temporary Specification or TempSpec.

The Temporary Specification established a set of temporary requirements aimed at facilitating compliance with the GDPR while maintaining the functionality of the WHOIS system. The Temporary Specification superseded and replaced requirements outlined in the Registry Agreements and Registrar Accreditation Agreements. Any provisions within these agreements that were not explicitly addressed and modified by the Temporary Specification remained valid and enforceable, along with any applicable consensus policies.

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[72] See Cross Community Session: General Data Protection Regulation (GDPR) Implications for ICANN, 2 November 2017, https://icann60abudhabi2017.sched.com/event/CbHj/cross-community-session-general-data-protection-regulation-gdpr-implications-for-icann

[73] See Base Registry Agreement - Updated 31 July 2017, Specification 4: Registration Data Publication Services, https://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-31jul17-en.html

[74] See 2013 Registration Accreditation Agreement, Registration Data Director Service (WHOIS) Specification, https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en#whois

[75] https://www.icann.org/resources/pages/contractual-compliance-statement-2017-11-02-en

[76] https://www.icann.org/resources/pages/gdpr-legal-analysis-2017-11-17-en#community-models

[77] See Proposed Interim Models for Compliance with ICANN Agreements and Policies in Relation to the European Union's General Data Protection Regulation – For Discussion, 12 January 2018, https://www.icann.org/en/system/files/files/interim-models-gdpr-compliance-12jan18-en.pdf

[78] See Proposed Interim Model for GDPR Compliance-- Summary Description, 28 February 2018, https://www.icann.org/en/system/files/files/proposed-interim-model-gdpr-compliance-summary-description-28feb18-en.pdf

[79] See Temporary Specification for gTLD Registration Data, Effective as of 25 May 2018, https://www.icann.org/resources/pages/gtld-registration-data-specs-en/#temp-spec

Under the Temporary Specification, there was continued collection of domain name registration data, including information about registrants, administrative contacts, and technical contacts. However, the disclosure of most personal data was restricted to layered, or tiered, access. Users with a legitimate and proportionate purpose for accessing nonpublic personal data would request access through registrars and registry operators. Contact with registrants or their designated contacts could still be made using anonymized email or web forms. The Temporary Specification allowed for flexibility in its implementation, requiring compliance with GDPR in relevant jurisdictions but giving registry operators and registrars the option to apply its requirements globally or when technical limitations prevent specific application to GDPR-governed data. The Temporary Specification applied to all types of gTLD domain name registrations, without differentiating between legal and natural persons.

The ICANN Board adopted the Temporary Specification on 17 May 2018[80], which went into effect on 25 May 2018. Consequently, the first GNSO EPDP was automatically triggered to begin. The ICANN Board voted to reaffirm the Temporary Specification on 21 August 2018,[81] 6 November 2018,[82] and 27 January 2019.[83] The EPDP-TempSpec Phase 1 recommended that the requirements of the Temporary Specification continue to apply as an interim Consensus Policy until the EPDP-TempSpec Phase 1-recommended policy is implemented, and the ICANN Board adopted the Interim Registration Data Policy for gTLDs on 15 May 2019.[84]

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[80] See Approved Board Resolutions | Special Meeting of the ICANN Board | 17 May 2018, Consideration of the Temporary Specification for gTLD Registration Data (Implementation of GDPR Interim Compliance Model), https://www.icann.org/en/board-activities-and-meetings/materials/approved-resolutions-special-meeting-of-the-icann-board-17-05-2018-en#1.a

[81] See Approved Board Resolutions | Special Meeting of the ICANN Board | 21 August 2018, Reaffirming the Temporary Specification for gTLD Registration Data, https://www.icann.org/en/board-activities-and-meetings/materials/approved-resolutions-special-meeting-of-the-icann-board-21-08-2018-en#1.a

[82] See Approved Board Resolutions | Special Meeting of the ICANN Board | 6 November 2018, Reaffirming the Temporary Specification for gTLD Registration Data, https://www.icann.org/en/board-activities-and-meetings/materials/approved-resolutions-special-meeting-of-the-icann-board-06-11-2018-en#2.b

[83] See Approved Board Resolutions | Regular Meeting of the ICANN Board | 27 January 2019, Reaffirming the Temporary Specification for gTLD Registration Data, https://www.icann.org/en/board-activities-and-meetings/materials/approved-resolutions-regular-meeting-of-the-icann-board-27-01-2019-en#1.g

[84] See Approved Board Resolutions | Special Meeting of the ICANN Board | 15 May 2019, Consideration of GNSO EPDP Recommendations on the Temporary Specification for gTLD Registration Data, https://www.icann.org/en/board-activities-and-meetings/materials/approved-resolutions-special-meeting-of-the-icann-board-15-05-2019-en#1.b

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GNSO Expedited Policy Development Process on the Temporary Specification for gTLD Registration Data Phase 1

The GNSO Council formally initiated the first phase of the EPDP on the Temporary Specification (EPDP-TempSpec) and adopted the charter on 19 July 2018.85 The mission of the EPDP-TempSpec was to develop a permanent policy framework for the collection, disclosure, access, and retention of domain name registration data in compliance with the GDPR and take into account other relevant privacy and data protection laws.

The EPDP-TempSpec was split into the following phases to address the complex issues related to the GDPR's impact on domain name registration data in a structured and efficient manner. This approach allowed for focused discussions, stakeholder engagement, and timely decision-making while ensuring a thorough examination of the issues:

- **Phase 1**: Evaluate the Temporary Specification for gTLD Registration Data and determine if it should be adopted as an ICANN Consensus Policy, either as-is or with modifications.
- **Phase 2**: Define requirements for a System for Standardized Access/Disclosure (SSAD) for nonpublic registration data; address deferred issues from Phase 1, including legal vs. natural persons, additional purposes for ICANN's Office of the Chief Technology Officer (OCTO) processing of personal data within gTLD registration data, display of information of affiliated vs. accredited privacy/proxy providers, data retention, and redaction of the city field; and review legal guidance provided during Phase 1.
- **Phase 2A**: Discuss the remaining two issues from Phase 2: Differentiation between legal and natural persons' data and assess the feasibility of assigning a uniform anonymized email address to unique contacts.

EPDP-TempSpec Phase 1 Charter through the Initial Report

The EPDP-TempSpec Phase 1 commenced in July 2018 when the GNSO accepted the EPDP charter and concluded in March 2019 with the adoption of the EPDP-TempSpec Phase 1 Final Report.[86] The representative model for the EPDP-TempSpec included team members from across the ICANN community:

- GNSO: These members are appointed by GNSO stakeholder groups. The Contracted Parties House, which includes the Registries Stakeholder Group and the Registrar Stakeholder Group, could appoint up to three members each, along with three alternates for each group. The Non-Commercial Stakeholder Group could appoint six members with three alternates. The Intellectual Property, Business, and Internet Service Provider Constituencies could each appoint two members and one alternate each.

[85] See Temporary Specification for gTLD Registration Data Expedited Policy Development Process Team (Temp Spec gTLD RD EPDP Team) Charter, 19 July 2018, https://gnso.icann.org/sites/default/files/file/field-file-attach/temp-spec-gtld-rd-epdp-19jul18-en.pdf

[86] See Council Resolutions 1999 - 2019, Resolution 20190304-1, Adoption of the Expedited Policy Development Process (EPDP) on the Temporary Specification Final Report and Recommendations https://gnso.icann.org/en/council/resolutions/1999-2019#20190304-1

- The Country Code Names Supporting Organization and the At-Large, Root Server System, and Security and Stability Advisory Committees: These bodies were invited to designate two members each, along with two alternates for each group.
- The Governmental Advisory Committee (GAC): The GAC was invited to appoint three members, along with three alternates.

During this phase, the EPDP-TempSpec Team's primary objective was to assess the Temporary Specification and determine whether it should be adopted as an ICANN Consensus Policy, either without modifications or with specific modifications. Compliance with the GDPR and other relevant privacy and data protection laws was a key requirement outlined in the charter. The charter questions were broken into four categories:

Part 1: Purposes for Processing Registration Data	Part 2: Required Data Processing Activities	Part 3: Data Processing Terms	Part 4: Updates to Other Consensus Policies
• Evaluate the validity and legitimacy of the purposes outlined in the Temporary Specification • Determine if these purposes have a corresponding legal basis • Assess the need for eliminating, adjusting, or adding purposes	• Collection of registration data by registrar • Transfer of data from registrar to registry • Transfer of data from registrar/registry to data escrow provider • Transfer of data from registrar/registry to ICANN • Publication of data by registrar/registry • Data retention • Applicability of Data Processing Requirements • Transfer of data from registry to Emergency Back End Registry Operator (EBERO) • Temporary Specification and Reasonable Access	• Determine data processing activities where ICANN, a registry, or a registrar determines the purpose and means of processing • Identify the data controller and data processor for each type of data • Assess the responsibilities of a registry or registrar to the data subject for data processing activities under ICANN's control	• Confirm or propose adjustments to the Temporary Specification language related to: – Uniform Rapid Suspension (URS) policy – Uniform Domain-Name Dispute-Resolution Policy (UDRP) – Transfer Policy – Determine when requirements in the contracts to use the WHOIS protocol can be eliminated after migrating to RDAP.

The EPDP-TempSpec Team conducted a comprehensive analysis of the Temporary Specification, thoroughly examining its provisions, implications, and alignment with privacy regulations. This analysis formed the basis for evaluating the suitability of adopting the Temporary Specification as an ICANN Consensus Policy.

In November 2018, the EPDP-TempSpec Team published its Initial Report for Public Comment,[87,88] which presented preliminary recommendations and a set of questions for feedback. The EPDP-TempSpec Team also examined and made recommendations about:

- the validity, legitimacy, purposes, and legal base for the processing of personal data within gTLD registration data outlined in the Temporary Specification.
- the legitimacy, necessity, and scope of the registrar collection of registration data.
- the transfer of data from registrars to registries, each as outlined in the Temporary Specification.
- the publication of registration data by registrars and registries as outlined in the Temporary Specification.

EPDP-TempSpec Phase 1 Final Report

Following the publication of the Initial Report, the EPDP-TempSpec Team sought legal guidance, reviewed Public Comment submissions, engaged with their respective ICANN community groups, and drafted the Final Report.[89] The recommendations in the EPDP-TempSpec Phase 1 Final Report included detailed justifications demonstrating GDPR compliance and readiness for legal review.

The EPDP-TempSpec Phase 1 Final Report contained a total of 29 recommendations, addressing various aspects of data collection, transfer, disclosure, publication, and retention for gTLD registration data. Almost all of the recommendations reached full consensus or consensus designations. Recommendations 2 and 16 ultimately reached divergence–a position where strong support for any particular position does not exist, but there are many different points of view. The overarching objective was to determine which elements of WHOIS data should be redacted or restricted to comply with GDPR privacy requirements while ensuring the continued functionality of the WHOIS system. The EPDP-TempSpec Team made recommendations on which data elements are required to be collected and transmitted for the following scenarios:

- Data elements collected by registrars (Recommendation #5).
- Data elements transferred from registrar to registry provided an appropriate legal basis exists and data processing agreement is in place (Recommendation #7).
- Data elements to be transferred by registries and registrars to data escrow providers (Recommendation #8).
- Redaction requirements for personal data in public registration data directory services (Recommendations #10 and #11).

The Final Report also identified areas that required further examination, such as data retention requirements, disclosure obligations, and access mechanisms for nonpublic registration data. These areas were deferred to Phase 2 of the EPDP-TempSpec for more in-depth analysis.

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[87] See Public Comment on Initial Report of the Expedited Policy Development Process (EPDP) on the Temporary Specification for gTLD Registration Data Team, https://www.icann.org/en/public-comment/proceeding/initial-report-of-the-expedited-policy-development-process-epdp-on-the-temporary-specification-for-gtld-registration-data-team-21-11-2018

[88] For supplemental listening, watch or listen to the ICANN63 session on High-Interest Topic: EPDP on the Temporary Specification for gTLD Registration Data - Review of Draft Report and Recommendations to get an overview of the EPDP Phase 1 Initial Report. You will need to download the presentation slides for this session and follow along with the recording

[89] See Final Report of the Temporary Specification for gTLD Registration Data Expedited Policy Development Process, 20 February 2019, https://gnso.icann.org/sites/default/files/file/field-file-attach/epdp-gtld-registration-data-specs-final-2-20feb19-en.pdf

In March 2019, the GNSO Council adopted the Final Report, and in May 2019, the ICANN Board adopted most of the recommendations,[90] leading to the establishment of the Interim Registration Policies for gTLDs.[91] The Interim Policy mandates gTLD registry operators and ICANN-accredited registrars continue to adhere to measures consistent with the Temporary Specification for gTLD Registration Data on an interim basis until the Registration Data Policy is implemented.

ICANN Community Group Perspectives in EPDP-TempSpec Phase 1

Throughout EPDP-TempSpec Phase 1, three of the ICANN Advisory Committees issued advice related to domain name registration data and the progress of EPDP-TempSpec Phase 1.

ALAC ADVICE DURING EPDP-TEMPSPEC PHASE 1

In December 2018, the At-Large Advisory Committee (ALAC) responded to the Public Comment survey on the Initial Report and issued their response as ALAC Advice on the GNSO Expedited Policy Development Process (EPDP) on the Temporary Specification for gTLD Registration Data Policy Recommendations for ICANN Board Consideration.[92] In their input, the ALAC expressed support for several key purposes and recommendations, including those related to WHOIS accuracy, training, and outreach. However, they emphasized the need for additional purposes to address specific activities like the WHOIS Accuracy Reporting System (ARS), OCTO research, and threats analysis and prevention. The ALAC highlighted the importance of timely access to registration data for compliance purposes, called for a clear timeline for access discussions, and acknowledged the complexity of complying with privacy regulations in various jurisdictions. The ALAC also drew attention to the broader issue of Internet user privacy in relation to fraud and phishing while referencing the Security and Stability Advisory Committee's stance on ensuring RDDS access aligns with legal requirements.

The ALAC also underlined the importance of maintaining policies like Uniform Rapid Suspension (URS) and Uniform Domain-Name Dispute-Resolution Policy (UDRP) to combat trademark abuse and offensive website content, ensuring these processes continue unimpeded by GDPR implementation. The ALAC called for safeguards against unilateral removal of registrant-provided data elements and recommended the inclusion of a field indicating registrant status (natural or legal person). Additionally, they expressed concern about cybersecurity risks associated with excessive redaction of registration data and emphasized the need for differentiation between legal and natural persons.

After the Final Report was developed, in April 2019 the ALAC issued Advice on the EPDP-TempSpec Final Report.[93] In its advice, the ALAC raised three significant concerns related to the process and outcomes. First, they expressed apprehension about the effective disappearance of Thick WHOIS, which has been the standard for most gTLDs. The EPDP-Temp Spec Team's recommendations made it unlikely for other TLDs to adopt Thick WHOIS, and the ALAC called for a discussion on this issue during Phase 2, supported by a new legal opinion.

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[90] See Approved Board Resolutions | Special Meeting of the ICANN Board | 15 May 2019, Consideration of GNSO EPDP Recommendations on the Temporary Specification for gTLD Registration Data, Board Resolutions 2019.05.15.04-07, https://www.icann.org/en/board-activities-and-meetings/materials/approved-resolutions-special-meeting-of-the-icann-board-15-05-2019-en#1.b

[91] See Interim Registration Data Policy for gTLDs, https://www.icann.org/resources/pages/interim-registration-data-policy-en

[92] See ALAC Advice on GNSO Expedited Policy Development Process (EPDP) on the Temporary Specification for gTLD Registration Data Policy Recommendations for ICANN Board Consideration, https://atlarge.icann.org/en/advice_statements/12977

[93] See ALAC Advice on GNSO Expedited Policy Development Process (EPDP) on the Temporary Specification for gTLD Registration Data Policy Recommendations for ICANN Board Consideration, https://atlarge.icann.org/en/advice_statements/13253

Second, the ALAC was concerned about the EPDP-TempSpec Team's recommendation to apply GDPR globally, without considering geographical distinctions. They argued that GDPR primarily applies within the European Economic Area (EEA) and to entities targeting EU residents, and this issue was not adequately discussed during Phase 1. They recommended reopening the debate on geographic differentiation in Phase 2 in light of a new legal opinion.

Lastly, the ALAC highlighted the need for differentiation between legal and natural persons and advocated for a balanced discussion considering the competing demands of data access for cybersecurity and other legitimate purposes. They suggested that independent studies would be valuable to fully understand the implementation challenges and GDPR-related risks associated with these issues. The ALAC emphasized the importance of a thorough and well-informed discussion within the EPDP process.

GAC ADVICE DURING EPDP-TEMPSPEC PHASE 1

The Governmental Advisory Committee (GAC) issued several items of advice related to GDPR, WHOIS, and the EPDP-TempSpec in its communiqués that are issued at the end of each ICANN Public Meeting. GAC advice throughout these communiqués underscores the importance of balancing GDPR compliance with the need for continued access to WHOIS data for legitimate purposes. The GAC has called for the development of a unified access model and close monitoring of progress in achieving this goal.

In the ICANN61 Communiqué, the GAC emphasized the need to comply with GDPR while ensuring access to data for legitimate purposes.[94] The GAC encouraged ICANN to involve the multistakeholder community and European data protection authorities in this process. The GAC also advised maintaining the current WHOIS structure as much as possible, while complying with GDPR and advocating for continued access to WHOIS, including nonpublic data, for legitimate purposes.

In the ICANN62 Communiqué, the GAC reiterated the importance of a unified access model for nonpublic WHOIS data, emphasizing its central role in providing access to such data for legitimate users.[95] The GAC urged ICANN to swiftly develop and implement a unified model, and to ensure it would apply to all contracted parties. The GAC further requested a progress report prior to ICANN63.

Then, in the ICANN63 Communiqué, the GAC reinforced the need for a unified access model and welcomed ICANN's efforts to facilitate ICANN community discussions on this model.[96] In the ICANN64 Communiqué, the GAC emphasized the unified access model again, highlighting the negative impact of changes in WHOIS accessibility on legitimate users and referencing the European Data Protection Board's guidance regarding GDPR.[97]

The ICANN65 Communiqué briefly reiterated GAC advice from ICANN64 and welcomed actions on the upcoming second phase of the EPDP-TempSpec.[98] Lastly, in the ICANN66 Communiqué, the GAC advised the ICANN Board to ensure that ICANN and the EPDP-TempSpec Phase 1 Implementation Review Team establish a detailed work plan and provide updates on their progress, particularly concerning the completion of their work.[99]

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[94] See ICANN61 San Juan Communique, https://gac.icann.org/contentMigrated/icann61-san-juan-communique?language_id=1
[95] See ICANN62 Panama Communique, https://gac.icann.org/contentMigrated/icann62-panama-communique?language_id=1
[96] See ICANN63 Barcelona Communique, https://gac.icann.org/contentMigrated/icann63-barcelona-communique?language_id=1
[97] See ICANN64 Kobe Communique, https://gac.icann.org/contentMigrated/icann64-kobe-communique?language_id=1
[98] See ICANN65 Marrakech Communique, https://gac.icann.org/contentMigrated/icann65-marrakech-communique?language_id=1
[99] See ICANN66 Montreal Communique, https://gac.icann.org/contentMigrated/icann66-montreal-communique?language_id=1

SSAC ADVICE DURING EPDP-TEMPSPEC PHASE 1

SAC101

In June 2018, the Security and Stability Advisory Committee (SSAC) published SAC101v1: SSAC Advisory Regarding Access to Domain Name Registration Data.[100] This was largely developed prior to the publication and instatement of the Temporary Specification. However, due to the commencement of GDPR enforcement and the GNSO EPDP-TempSpec starting in the ICANN community, the SSAC retired SAC101v1 and published SAC101v2 in December 2018.[101] Version 2 is the authoritative SSAC advice.

SAC101v2 emphasized the importance of reliable access to domain name registration data (RDDS) for various legitimate purposes, particularly for identifying and mitigating Internet abuse and technical issues. It identified two main reasons behind restricted RDDS access: legal and policy developments and the practice of rate limiting. These developments negatively affect the ability of security practitioners and law enforcement to combat cybercrime and DNS abuse, increasing operational and administrative burdens and impacting the stability and trustworthiness of the DNS.

The SSAC provided several recommendations to address these challenges, including the development of a comprehensive domain registration data policy, transitioning to the RDAP protocol for improved authentication and access control, requiring thin gTLD registries to adopt Thick status, and supporting the creation of an accredited RDDS access program. It also highlighted the need to ensure security practitioners and law enforcement have access to domain name contact data to the fullest extent allowed by applicable law.

The main differences between the recommendations in SAC101v1 and SAC101v2 are shifts in emphasis and responsibility. SAC101v1 placed a specific emphasis on the ICANN Board overseeing a plan, while SAC101v2 emphasized collective prioritization by all of ICANN. SAC101v1 mentions amending contracts for more measurable RDDS access, while SAC101v2 focuses on creating a measurable and enforceable framework. SAC101v1 calls for formal assessments and GNSO PDPs for fee changes, while SAC101v2 addresses fee changes with a focus on assessing user impacts and security and stability, without specifying a GNSO PDP. Both sets aim to address domain registration data and access issues but differ in clarity and stakeholder responsibilities.

SAC104

Shortly after the SSAC published SAC101v2, the SSAC also published SAC104: SSAC Comment on Initial Report of the Temporary Specification for gTLD Registration Data Expedited Policy Development Process.[102] The SSAC provided feedback on specific sections of the EPDP-TempSpec Initial Report, addressing various concerns. The SSAC pointed out conflicts in recommendations, especially regarding data accuracy under the GDPR and suggested that a comprehensive exploration of data accuracy requirements under GDPR is necessary. The SSAC also highlighted technical issues in certain proposals, recommending simpler solutions that align with existing systems.

The SSAC also emphasized the importance of standardized access and the need for a unified access model. The SSAC also suggested that certain data collection requirements from the Registrar Accreditation Agreement (RAA) should remain intact. Additionally, the SSAC recommended mechanisms to determine registrant status as natural or legal persons and proposed transparent requirements for “reasonable access” that can be clearly understood and enforced.

[100] See SAC101v1: SSAC Advisory Regarding Access to Domain Name Registration Data, https://www.icann.org/en/system/files/files/sac-101-en.pdf
[101] See SAC101v2: SSAC Advisory Regarding Access to Domain Name Registration Data, https://www.icann.org/en/system/files/files/sac-101-v2-en.pdf
[102] See SAC104: SSAC Comment on Initial Report of the Temporary Specification for gTLD Registration Data Expedited Policy Development Process, https://www.icann.org/en/system/files/files/sac-104-en.pdf

BUSINESS CONSTITUENCY AND THE INTELLECTUAL PROPERTY CONSTITUENCY

The EPDP-TempSpec Phase 1 Final Report contained a minority statement submitted jointly by the GNSO Business Constituency (BC) and the Intellectual Property Constituency (IPC). In their minority statement, the BC and IPC expressed their support for the EPDP-TempSpec Phase 1 Final Report while also highlighting their disagreement with certain parts. They proposed five specific amendments to improve the Final Report. These amendments included revising Purpose 2 of Recommendation 1, adding the requirement for registrars and registry operators to reasonably consider disclosure requests, specifying response timelines and criteria for disclosure requests, updating the implementation of privacy and proxy registrations, clarifying the implementation of the organization field, addressing the scope of geographic distinction, and resolving the legal vs. natural person issue. The BC and IPC also raised concerns about Thick WHOIS, data verification, and the need to respect registrants' consent for publishing contact information. Ultimately, the ICANN Board deferred consideration of Recommendation 1 Purpose 2 and only partially adopted Recommendation 12.[103]

[103]See Scorecard: EPDP Phase 1 Recommendations, 15 May 2019, https://www.icann.org/en/system/files/files/epdp-scorecard-15may19-en.pdf

6 EPDP-TempSpec Phase 2

Deliberations and Recommendations of EPDP-TempSpec Phase 2

Phase 2 of the GNSO Expedited Policy Development Process (EPDP) on the Temporary Specification for gTLD Registration Data (Temporary Specification or TempSpec) aimed to address:

- The development of policy recommendations for a system for standardized access to nonpublic gTLD Registration Data,
- Issues outlined in the Annex to the Temporary Specification, and
- Unresolved issues from EPDP Phase 1.

The EPDP-TempSpec team agreed that priority should be given to completing its deliberations concerning a System for Standardized Access/Disclosure (SSAD). It agreed, however, that where feasible, the team would also endeavor to make progress on priority 2 items in parallel. To streamline their work, the EPDP-TempSpec team maintained a detailed work plan, effectively segmenting its discussions based on priority and topic relevance. The EPDP-TempSpec team organized its work into two priorities:

1. Discussion of a System for Standardized Access/Disclosure (SSAD) to nonpublic registration data: One of the primary focuses of Phase 2 was the development of policy recommendations for an SSAD to enable standardized access to nonpublic gTLD Registration Data. This involved exploring the technical and operational aspects of implementing such a system while considering the data protection concerns of individuals.
2. Priority 2 Topics:
    c. Display of information of affiliated vs. accredited privacy/proxy providers
    d. Legal vs. natural persons
    e. City field redaction
    f. Data retention
    g. Potential purpose for ICANN's Office of the Chief Technology Officer
    h. Feasibility of unique contacts to have a uniform anonymized email address
    i. Accuracy and WHOIS Accuracy Reporting System

The team also established a Legal subteam to prepare questions for legal analysis from external legal counsel.[104]

[104] See EPDP -P2 Legal subteam for the legal memos prepared for the EPDP team by external legal counsel, Bird & Bird, https://community.icann.org/display/EOTSFGRD/EPDP+-P2+Legal+subteam

The EPDP-TempSpec team published its findings and preliminary recommendations in the Phase 2 Initial Report in February 2020.[105] The Phase 2 Initial Report laid out the underlying assumptions, preliminary recommendations, and considerations for the SSAD. This proposed system was recommended to manage third-party requests for nonpublic domain registration data, striking a balance between data protection and legitimate access requirements. The team delineated guidelines on data redaction for public registration data directory services, outlined the minimum registration data retention periods considering operational necessities, and emphasized the relevance of Data Protection Impact Assessments (DPIAs) for systems like the SSAD. The discussion also ventured into the feasibility of requiring unique contacts to have a uniform anonymized email address across domain name registrations at a given registrar and the significance of the city field in registration data. The team also examined the process of data transfer between registrars during domain migrations to ensure its harmony with data protection obligations.

The Phase 2 Initial Report was made available for Public Comment from 7 February–23 March 2020 and received 45 submissions from GNSO Stakeholder Groups, Constituencies, ICANN Advisory Committees, companies, organizations, and two individuals. While the Phase 2 Initial Report was open for Public Comment, the EPDP-TempSpec team focused on the priority 2 topics which were documented in an Addendum to the Phase 2 Initial Report[106], which itself was made available for Public Comment from 26 March–5 May 2020. To facilitate its review of the Public Comment submissions, the ICANN organization support team developed a set of Public Comment review tools and discussion tables, which provide a high-level assessment of the views expressed on the preliminary recommendations as well as the detailed comments provided in each submission.[107]

After the Addendum's Public Comment closed, the EPDP-TempSpec team finalized its recommendations and published the Phase 2 Final Report on 31 July 2020.[108] The EPDP-TempSpec team made 18 recommendations on the SSAD, four recommendations on priority 2 topics, and two additional conclusions on priority 2 topics.

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[105] See Initial Report of the Temporary Specification for gTLD Registration Data Phase 2 Expedited Policy Development Process, 7 February 2020, https://gnso.icann.org/sites/default/files/file/field-file-attach/epdp-phase-2-initial-report-07feb20-en.pdf

[106] See Addendum to: Initial Report of the Temporary Specification for gTLD Registration Data Phase 2 Expedited Policy Development Process, https://gnso.icann.org/sites/default/files/file/field-file-attach/epdp-phase-2-addendum-26mar20-en.pdf

[107] See EPDP on the Temporary Specification for gTLD Registration Data, Public Comment Review Tool & Discussion Drafts, https://community.icann.org/pages/viewpage.action?pageId=126430750

[108] See Final Report of the Temporary Specification for gTLD Registration Data Phase 2 Expedited Policy Development Process, https://gnso.icann.org/sites/default/files/file/field-file-attach/epdp-phase-2-temp-spec-gtld-registration-data-2-31jul20-en.pdf

Priority	Summary of Recommendations
1. SSAD and all directly-related questions	• Detailed specifications for the SSAD, including policy requirements and data access controls. • Processes for accreditation and authorization of parties seeking access to nonpublic gTLD Registration Data. • Requirements for requestors' identification of legitimate purposes and lawful bases for accessing nonpublic data with each request for data access. • Policies for data minimization, retention, and security measures.
2. Priority 2 Topics	• Recommendations on the display of affiliated and/or accredited privacy/proxy providers' contact data in public registration data directory services. • Guidance on redaction and disclosure requirements for the city field in registration data. • Recommendations on data retention periods, specifying the length of time registration data must be retained. • Recognizing "contributing to the maintenance of the security, stability, and resilience of the Domain Name System (DNS) in accordance with ICANN's mission" as a purpose for processing gTLD Registration Data, as an update to the original "Purpose 2" identified by the EPDP-TempSpec Phase 1 working group.

The EPDP-TempSpec team reached an additional two conclusions. Most EPDP-TempSpec team members concluded that there was no need for the team to specify, as a matter of ICANN Consensus Policy, additional purposes to support ICANN's Office of the Chief Technology Officer (OCTO)'s legitimate access to gTLD Registration Data since the updated Purpose 2 for processing registration data adequately encompasses OCTO's tasks and those of other teams in the ICANN organization. Regarding gTLD Registration Data accuracy and the WHOIS Accuracy Reporting System, the EPDP-TempSpec team halted consideration of this topic. Instead, the GNSO Council planned to form a scoping team to examine the issues and decide on next steps, separate from the EPDP-TempSpec.

Due to external factors and time limitations, the Final Report did not cover all priority 2 items. Specifically, the differentiation between legal and natural persons was considered in Phase 2 but did not result in new policy recommendations. A study on the topic arrived too late for proper evaluation. Additionally, the EPDP-TempSpec team determined based on legal advice that requiring registrars to publish unique, anonymized email addresses across domain name registrations would result in the publication of personal data, which could potentially breach the European Union's General Data Protection Regulation (GDPR). As a result of that determination, the working group did not issue a recommendation on that topic and noted that further work on that issue was under consideration by the GNSO Council.

The GNSO Council considered the Final Report and adopted it with the necessary GNSO supermajority support in September 2020.[109] The consideration and analysis of the EPDP-TempSpec Phase 2 recommendations will be covered in depth in Module 4.

ICANN Community Group Perspectives in EPDP-TempSpec Phase 2

Throughout Phase 2, three of the ICANN Advisory Committees issued inputs related to gTLD Registration Data and the progress of the EPDP-TempSpec team. In addition, seven stakeholder groups submitted minority statements to the EPDP-TempSpec Phase 2 Final Report.

ALAC STATEMENTS DURING EPDP-TEMPSPEC PHASE 2

The At-Large Advisory Committee (ALAC) submitted a response to the Public Comment proceeding for the Phase 2 Initial Report in March 2020 which indicated general support for the preliminary recommendations with a few noted concerns.[110] In its Public Comment submission, the ALAC advocated for a transparent timeline to maintain accessibility and argued against a recommendation that the policy require requestors to identify a lawful basis for requests for access that concern non-personal data, seeing it as a potential source of delays. The ALAC also pushed for broader automation of disclosure requests which, in the ALAC's view, could be achieved by seeking the advice of data protection authorities. Addressing response times, the ALAC deemed the proposed urgent response window as insufficient, suggesting a stricter 24-hour time frame. It also called for clearer guidelines on Domain Name System (DNS) abuse case response times, with a focus on transparent communication and documentation of any delays. Regarding financial aspects, the ALAC highlighted the ambiguous wording on costs to data subjects, urging clarity to prevent unexpected charges for registrants and promoting special fee structures for select organizations. The ALAC also stressed the importance of resolving priority 2 issues, notably data accuracy and distinguishing between the gTLD Registration Data of legal and natural persons, warning against the pitfalls of an imprecise system.

The ALAC also provided feedback on the Addendum to the Initial Report in May 2020.[111] The ALAC endorsed recommendations concerning domains registered through accredited privacy/proxy services. It emphasized the significance of publishing gTLD Registration Data for these domains and supported the preliminary recommendations on city field redaction, data retention, and ICANN's OCTO purpose. The ALAC believed the reformulated purpose 2 sufficiently addressed OCTO's needs and fully backed the addition of the revised purpose to ICANN's reasons for processing.

On the other hand, the ALAC expressed concerns about the treatment of differentiation between registrations of legal and natural persons, urging for immediate actions and not deferrals. It also opposed the rejection of the concept of registrars creating pseudonymized email addresses for registrants to be used across all of the registrant's domain names registered via the registrar. They also expressed a pressing need to address the accuracy of gTLD Registration Data, highlighted its importance, and expressed discontent that the EPDP Phase 1 commitment on this matter had not been adequately met.

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[109] See Council Resolutions 2020 - Current, Resolution 20200924-2, Adoption of the Expedited Policy Development Process (EPDP) on the Temporary Specification Phase 2 Final Report and Recommendations, https://gnso.icann.org/en/council/resolutions/2020-current#20200924-2

[110] See ALAC Statement on Initial Report of the Expedited Policy Development Process (EPDP) on the Temporary Specification for gTLD Registration Data team – PHASE 2, https://atlarge.icann.org/en/advice_statements/13769

[111] See ALAC Statement on Addendum to the Initial Report of the Expedited Policy Development Process (EPDP) on the Temporary Specification for gTLD Registration Data team – Phase 2, https://atlarge.icann.org/en/advice_statements/13775

The ALAC separately published a minority statement submitted in the Phase 2 Final Report,[112] which is summarized in Section 2.2.4 below. After the Final Report was published, the ALAC published an addendum to its minority statement in August 2020 expressing general agreement with the minority statements submitted by the Business Constituency (BC), Intellectual Property Constituency (IPC), Governmental Advisory Committee (GAC), and the Security and Stability Advisory Committee (SSAC).[113] In particular, the ALAC noted appreciation for the in-depth and insightful analyses.

GAC ADVICE DURING EPDP-TEMPSPEC PHASE 2

Throughout EPDP-TempSpec Phase 2, the Governmental Advisory Committee (GAC) provided feedback and advice in its communiqués that are issued at the end of each ICANN Public Meeting. The GAC consistently sought clarity, expediency, and thoroughness in EPDP-TempSpec proceedings, while also stressing the need to maintain access to crucial gTLD Registration Data. It also continually called attention to the relevance of policy recommendations from the GNSO Privacy/Proxy Services Accreditation Issues Policy Development Process.

In the ICANN64 communiqué, the GAC emphasized the need for clear milestones, timely progress reports, and a swift timeline for Phase 2, akin to Phase 1.[114] It wanted a well-defined scope for Phase 2 and called for the allocation of necessary resources, especially for legal complexities carried over from Phase 1. The GAC also suggested parallel technical studies to inform the EPDP-TempSpec team's efforts and recommended immediate implementation of new policies. Additionally, it urged the re-initiation of implementation of existing policies, such as the Privacy/Proxy Services Accreditation Issues.

The ICANN65 communiqué acknowledged the ongoing actions in Phase 2 and reiterated the points from the ICANN64 communiqué in follow-up to previous advice.[115]

In the ICANN66 communiqué, the GAC focused on ensuring "reasonable access" to nonpublic gTLD Registration Data.[116] It highlighted the need for stakeholder education and recommended a specific process to manage complaints about access to nonpublic gTLD Registration Data. The GAC also emphasized the continuing relevance of the Privacy/Proxy Services Accreditation Issues policy recommendations.

In the ICANN68 communiqué, the GAC re-emphasized the importance of maintaining as much access to gTLD Registration Data as possible.[117]

By ICANN70, while the GAC acknowledged the progress made in Phase 2, it expressed significant concerns regarding some recommendations and perceived gaps in the Phase 2 Final Report, referencing its minority statement from August 2020.[118] The GAC submitted a minority statement in the Phase 2 Final Report, which is summarized in Section 2.2.4.

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[112]See ALAC Statement on EPDP (July 2020), https://atlarge.icann.org/en/advice_statements/13793
[113]See Addendum to the ALAC Statement on EPDP (August 2020), https://atlarge.icann.org/en/advice_statements/13795
[114]See ICANN64 Kobe Communique, https://gac.icann.org/contentMigrated/icann64-kobe-communique?language_id=1
[115]See ICANN65 Marrakech Communique, https://gac.icann.org/contentMigrated/icann65-marrakech-communique?language_id=1
[116]See ICANN66 Montreal Communique, https://gac.icann.org/contentMigrated/icann66-montreal-communique?language_id=1
[117]See ICANN68 GAC Communique, https://gac.icann.org/contentMigrated/icann68-gac-communique?language_id=1
[118]See ICANN70 GAC Communique, https://gac.icann.org/contentMigrated/icann70-gac-communique?language_id=1

SSAC INPUTS DURING EPDP-TEMPSPEC PHASE 2

In May 2020, the Security and Stability Advisory Committee (SSAC) published SAC111: SSAC Comment on the Initial Report of the Temporary Specification for gTLD Registration Data Phase 2 Expedited Policy Development Process.[119] The SSAC highlighted what it observed as major issues in the legal guidance process, including delays and poor communication, which resulted in key questions regarding the handling of natural vs. legal person data and the right to object remaining unresolved. Additionally, a vital research project on differentiating between legal and natural persons had been delayed, impacting informed decision-making. The SSAC underscored the importance of maintaining the legitimacy of ICANN policy development and urged stricter oversight in future phases.

The SSAC also provided feedback on specific preliminary recommendations. It emphasized the importance of clear implementation guidance and the need for continuous software enhancements, particularly in the context of the proposed hybrid model. The SSAC raised concerns about timely responses for nonpublic gTLD Registration Data requests, especially for urgent cybersecurity matters, suggesting refinements to service level agreements and periodic reviews. The SSAC also emphasized the important role of automation in efficiently processing data requests.

The SSAC advised the EPDP-TempSpec team to finalize discussions on the continuous improvement of the SSAD and integrate the findings into the Phase 2 Final Report. The SSAC also recommended the GNSO Council suspend work on financial sustainability, maintaining that future policy development should strictly follow the original charters and any deviation should necessitate a charter modification. Finally, the SSAC urged the GNSO Council to consider its specific comments during its deliberations on accepting the recommendations and any subsequent implementation of the EPDP-TempSpec recommendations.

The SSAC separately published a minority statement submitted in the Phase 2 Final Report as SAC112,[120] which is summarized in Section 2.2.4.

MINORITY STATEMENTS IN EPDP PHASE 2 FINAL REPORT

The Final Report of Phase 2 was published on 10 August 2020. The EPDP-TempSpec Phase 2 Final Report contained a total of 22 recommendations for the SSAD, nonpublic gTLD Registration Data, and conclusions and recommendations for the Priority 2 topics carried over from Phase 1. The recommendations in Phase 2 did not reach the same level of consensus as in Phase 1:

- 11 recommendations obtained a “full consensus” designation
- 3 recommendations obtained a “consensus” designation
- 6 recommendations obtained a “strong support but significant opposition” designation
- 2 recommendations obtained a “divergence” designation

[119] See SAC111: SSAC Comment on the Initial Report of the Temporary Specification for gTLD Registration Data Phase 2 Expedited Policy Development Process, https://www.icann.org/en/system/files/files/sac-111-en.pdf

[120] See SAC112: Minority Statement on the Final Report of the Temporary Specification for gTLD Registration Data Phase 2 Expedited Policy Development Process (EPDP), https://www.icann.org/en/system/files/files/sac-112-en.pdf

Accordingly, seven ICANN community groups submitted minority statements to the EPDP-TempSpec Phase 2 Final Report:

ICANN Community Group	Summary of Minority Statement
At-Large Advisory Committee (ALAC)	The ALAC expressed concerns over several aspects of the policy development process. It emphasized the need for a balance between privacy and public interest, urging for clearer definitions and limitations on data disclosure. The ALAC also highlighted the importance of protecting registrants' rights and ensuring accountability of disclosure requestors. It proposed amendments to improve transparency, accountability, and accuracy in data collection and disclosure practices.
Joint statement by the Business Constituency (BC)/ Intellectual Property Constituency (IPC)	The BC and IPC expressed support for the EPDP-TempSpec team's efforts but also raised concerns about certain aspects of the proposed policy. They emphasized the need for a more balanced approach to data protection and access, particularly with regard to GDPR compliance. The BC and IPC proposed amendments to address issues related to standardized access, disclosure requests, privacy/proxy registrations, organization field implementation, geographic distinction, and the legal vs. natural person distinction.
Governmental Advisory Committee (GAC)	The GAC expressed several areas of concern. It emphasized the need for a clear definition of "legitimate interests" and raised questions about the proposed standardized access model. The GAC also expressed concerns regarding potential conflicts between privacy regulations and public policy needs. It recommended further analysis and consideration of these issues to ensure an appropriate balance between privacy and public interests.
Noncommercial Stakeholder Group (NCSG)	The NCSG expressed concerns about the potential impact of the proposed policy on noncommercial stakeholders and individual privacy rights. It emphasized the importance of protecting privacy and the need for strong safeguards against misuse of registrant data. The NCSG proposed amendments to strengthen data protection measures, increase transparency, and ensure accountability of disclosure requestors.
Registrar Stakeholder Group (RrSG)	The RrSG expressed concerns about the proposed standardized access model, highlighting potential operational challenges and legal uncertainties. The RrSG emphasized the need for clear guidelines on data disclosure, improved safeguards, and enhanced accountability mechanisms. It proposed amendments to address these concerns and ensure a more balanced approach to data protection and access.
Registries Stakeholder Group (RySG)	The RySG raised questions about the proposed standardized access model and its potential impact on data protection and operational feasibility. The RySG emphasized the need for clear and practical guidelines to ensure compliance with privacy regulations. It proposed amendments to address these concerns and ensure a balanced approach that respects privacy rights while allowing for legitimate access to registration data.
Security and Stability Advisory Committee (SSAC)	The SSAC emphasized the need to prioritize security and stability in data access and disclosure practices. The SSAC proposed amendments to enhance data protection measures, improve auditability, and ensure the security of registration data. It also stressed the importance of ongoing monitoring and evaluation of the impact of the policy on security and stability.

7 EPDP-TempSpec Phase 2A

Deliberations and Recommendations of EPDP Phase 2A

Phase 2A of the EPDP-TempSpec was a later addition to the process, born out of the recognition that two significant topics from Phase 2 required further attention:

1. Legal/Natural Distinction
   One primary deliberation was around distinguishing between domain registrations made by legal entities (like companies) vs. natural persons (individuals). This distinction is crucial because GDPR protects the data of natural persons, but data related to legal entities might not require the same level of protection. The EPDP-TempSpec team considered mechanisms by which registrars and registries might differentiate between these types of registrations and the associated implications.
2. Feasibility of Uniform Anonymized Email Addresses for Unique Contacts
   The EPDP-TempSpec team assessed the possibility of providing unique contacts with a consistent pseudonymized email address. It analyzed concrete proposals guided by legal expertise to address outlined issues. The discussions aimed to determine whether such pseudonymized email addresses for unique contacts were viable and, if so, whether they should be obligatory.

The GNSO Council reconvened the EPDP-TempSpec team to complete the consideration of these two topics in October 2020.[121] The team resumed its work and produced the Initial Report in June 2021 and published the Final Report later that year in October 2021.[122,123] The EPDP-TempSpec Phase 2A Final Report contained four recommendations in response to the remaining issues. All four recommendations obtained consensus from the team.

[121] See Council Resolutions 2020 - Current, 20201021 Consent Agenda Item 3.3, https://gnso.icann.org/en/council/resolutions/2020-current#20201021
[122] See Initial Report of the Temporary Specification for gTLD Registration Data Phase 2A Expedited Policy Development Process, https://gnso.icann.org/sites/default/files/file/field-file-attach/epdp-phase-2a-initial-report-02jun21-en.pdf
[123] See Final Report of the Temporary Specification for gTLD Registration Data Phase 2A Expedited Policy Development Process, https://gnso.icann.org/sites/default/files/file/field-file-attach/epdp-phase-2a-updated-final-report-13sep21-en.pdf

Phase 2A Topic	Summary of Recommendation
Legal vs. natural persons Are any updates required to the EPDP-TempSpec Phase 1 recommendation on this topic?	**Recommendation 1**: A field must be created to differentiate between legal and natural person registration data and indicate if the data contains personal information. This field should be supported by the System for Standardized Access/Disclosure (SSAD). Contracted Parties may use this field, but if a Contracted Party decides not to make use of the field, it may be left blank or may not be present.
Legal vs. natural persons Is there any guidance that can be provided to Registrars and/or Registries who distinguish between registrations made by legal entities and individuals?	**Recommendation 2**: Contracted Parties who choose to differentiate based on person type should follow guidance to differentiate and document processing steps based on person type (legal or natural). Safeguards should be in place to prevent the disclosure of personally identifying data within legal person data. It is not the role or responsibility of the EPDP-TempSpec team to make a final determination with regard to the legal risks, as that responsibility ultimately belongs to the data controller(s). Recommendation 3: The developed guidance on legal/natural differentiation should be considered in any future efforts to develop a possible future GDPR Code of Conduct within ICANN, separate from existing Codes of Conduct.
Feasibility of unique contacts Should anonymized email addresses be required for unique contacts, and is it feasible to implement?	**No recommendations.** The EPDP-TempSpec team acknowledged that it is possible to have either a registrant-based email contact or a registration-based email contact. However, due to concerns and risks raised by stakeholders, the EPDP-TempSpec team did not recommend requiring Contracted Parties to make either type of email address publicly available.
Feasibility of unique contacts What guidance can be given to Contracted Parties who wish to use consistent anonymous email addresses?	**Recommendation 4**: Contracted Parties should evaluate legal guidance on publishing pseudonymized registrant-based or registration-based email addresses in publicly accessible databases. Considerations include treating email addresses as personal data, benefits of masking email addresses, risk reduction, and measures to mitigate spam and contact availability.

In October 2021, the GNSO Council adopted the Final Report.[124] The consideration and analysis of the EPDP-TempSpec Phase 2A recommendations will be covered in depth in Module 4.

[124]See Council Resolutions 2020 - Current, Resolution 20211027-2, Adoption of the Expedited Policy Development Process (EPDP) on the Temporary Specification Phase 2A Final Report and Recommendations, https://gnso.icann.org/en/council/resolutions/2020-current#20211027-2

ICANN Community Group Perspectives in EPDP-TempSpec Phase 2A

Throughout Phase 2A, three of the ICANN Advisory Committees issued inputs related to gTLD Registration Data and the progress of the EPDP-TempSpec working group. In addition, eight stakeholder groups submitted minority statements to the EPDP-TempSpec Phase 2A Final Report.

ALAC STATEMENTS DURING EPDP-TEMPSPEC PHASE 2A

The ALAC provided specific feedback on the EPDP-TempSpec Phase 2A Initial Report during Public Comment in July 2021.[125] It opposed one recommendation and emphasized the need to balance data availability and GDPR compliance. The ALAC supported another recommendation that formalized the GNSO role in monitoring legislative changes. It also advocated for a standardized data element for legal/natural person differentiation, stressing clear communication with registrants. The ALAC agreed that Contracted Parties who choose to differentiate between legal and natural persons should follow guidance developed by the working group and document all steps of their own data processing and highlighted the importance of standardized data elements.

The ALAC separately published a minority statement in the Phase 2A Final Report, which is summarized in Section 3.2.4.[126]

GAC ADVICE DURING EPDP-TEMPSPEC PHASE 2A

During Phase 2A of the EPDP-TempSpec, the GAC reiterated its previous advice on related topics in its ICANN71 and ICANN72 communiqués.[127,128] It emphasized two points: First, the GAC expressed ongoing concern about the lack of a published implementation timeline for Phase 1 of the EPDP-TempSpec and urged the need for an updated schedule to guide its completion. Second, the GAC underscored the importance of resuming the implementation of Privacy/Proxy Services Accreditation Issues policy recommendations and called for prioritization and expeditious action in collaboration between the ICANN organization and the GNSO.

SSAC COMMENTS DURING EPDP-TEMPSPEC PHASE 2A

In July 2021, the SSAC published SAC118: SSAC Comments on Initial Report of the Expedited Policy Development Process (EPDP) on the Temporary Specification for gTLD Registration Data Team – PHASE 2A.[129] SAC118 delved into the issues under consideration by the EPDP-TempSpec Phase 2A working group within the broader context of gTLD Registration Data. The SSAC observed three competing interests within the Phase 2A policy deliberation: privacy advocates urging maximum protection, data requesters seeking extensive data access, and data controllers striving to minimize costs and risks. These interests occasionally overlapped or clashed, complicating the attainment of a consensus. The SSAC also expressed reservations about the feasibility of establishing a satisfactory differentiated access control system, citing uncertainties surrounding the SSAD and the absence of clarity in data access.

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[125] See ALAC Statement, Initial Report of the Expedited Policy Development Process (EPDP) on the Temporary Specification for gTLD Registration Data Team – PHASE 2A, https://atlarge.icann.org/en/advice_statements/13831

[126] See ALAC Statement, ALAC Minority Statement on EPDP-TempSpec Phase 2A Final Report, https://atlarge.icann.org/en/advice_statements/13837

[127] See ICANN71 GAC Communique, https://gac.icann.org/contentMigrated/icann71-gac-communique?language_id=1

[128] See ICANN72 GAC Communique, https://gac.icann.org/contentMigrated/icann72-gac-communique?language_id=1

[129] See SAC118: SSAC Comments on Initial Report of the Expedited Policy Development Process (EPDP) on the Temporary Specification for gTLD Registration Data Team – PHASE 2A, https://www.icann.org/en/system/files/files/sac-118-en.pdf

The SSAC recommended the GNSO and ICANN organization focus on the development of an efficient differentiated access system, emphasizing timeliness, reliability, usefulness, efficiency, and accessibility. The SSAC also recommended introducing a specific data element to distinguish between natural and legal persons in registration data with options for protecting data privacy. Furthermore, the SSAC recommended that registrars implement methods supporting registrant-based email contact while maintaining privacy safeguards and that additional research should be conducted for a mechanism that identifies registrations with common contacts.

The SSAC submitted a minority statement in the Phase 2A Final Report, which is summarized in Section 3.2.4. Subsequently, the SSAC updated SAC118 in November 2021 to remove an incorrect sentence and to bring SAC118 into alignment with its submitted minority statement.[130]

MINORITY STATEMENTS IN EPDP-TEMPSPEC PHASE 2A FINAL REPORT

While all of the Phase 2A recommendations obtained consensus, the Final Report notes that not every participating ICANN community group agreed that the EPDP-TempSpec team provided sufficient detail. The Phase 2A chair noted in the Final Report,

> *This Final Report constitutes a compromise that is the maximum that could be achieved by the group at this time under our currently allocated time and scope, and it should not be read as delivering results that were fully satisfactory to everyone. This underscores the importance of the minority statements in understanding the full context of the Final Report recommendations.*

Accordingly, eight ICANN community groups submitted minority statements to the EPDP-TempSpec Phase 2A Final Report:

ICANN Community Group	Summary of Minority Statement
At-Large Advisory Committee (ALAC)	The ALAC appreciates the efforts of the EPDP-TempSpec Phase 2A team but feels that their work fell short of addressing the mandate adequately. Concerns include the lack of differentiation between legal and natural person data, the absence of a requirement for common data element usage, the inability to contact registrants effectively, and flaws in the overall process. The ALAC emphasizes the need for better balance and stronger regulations to protect registrants and improve the decision-making process.
Business Constituency (BC)	The BC believes that the policy exceeds what is necessary to protect natural persons' data and emphasizes the need for a distinction between legal and natural persons in registration data. They also highlight the impact of the Directive on measures for a high common level of cybersecurity across the [European] Union (NIS2 Directive) and urge ICANN to respond to it. The BC disagrees with several recommendations, citing weak obligations, reliance on optional measures, and lack of enforceability. It advocates for stronger policies and obligations to enhance security and stability in the Domain Name System (DNS).

[130] See SAC118v2: SSAC Comments on Initial Report of the Expedited Policy Development Process (EPDP) on the Temporary Specification for gTLD Registration Data Team – PHASE 2A, https://www.icann.org/en/system/files/files/sac-118v2-en.pdf

Intellectual Property Constituency (IPC)	The IPC argues that data protection laws, like the GDPR, should not apply to non-personal data. They express concerns that the EPDP Phase 2A places an inappropriate burden on those advocating for the disclosure of non-personal data. The IPC supports the development of a standardized data element to indicate the nature of data but is disappointed with the limited agreement reached. It calls for explicit inclusion of requestors as controllers and processors in future Code of Conduct work. The IPC believes that a registrant-based pseudonymous email address should be published in WHOIS/Registration Data Directory Services, citing public interest benefits and potential compliance with the GDPR.
Governmental Advisory Committee (GAC)	The GAC expresses appreciation for the EPDP-TempSpec Phase 2A team's efforts but highlights concerns about the lack of enforceable obligations in the final recommendations. It emphasizes the need for mandatory differentiation between legal and natural persons' registration data and the publication of non-personal data of legal entities. The minority statement calls for the use of data fields, specific timelines, and consistent operation within existing systems. The GAC also recommends applying best practices to Contracted Parties and stakeholder involvement in developing a GDPR Code of Conduct. Additionally, the minority statement supports the publication of pseudonymized email addresses with risk reduction measures.
Noncommercial Stakeholder Group (NCSG)	The NCSG expresses dissatisfaction with the lengthy and challenging EPDP. It emphasizes the importance of registrants' rights and calls for clarity on ICANN's role as a data controller. The minority statement opposes modifying the work based on potential regulations and argues against mandating the distinction between legal and natural persons. The NCSG advocates for Contracted Parties' freedom to manage customer information and highlight the rights of gig workers and independent artists.
Registrar Stakeholder Group (RrSG)	The RrSG emphasizes the importance of allowing registrars to determine their own risk level and feasibility. It expresses disappointment with the lengthy discussions and out-of-scope topics in the EPDP-TempSpec Phase 2A. The RrSG opposes mandatory policy obligations and supports optional differentiation and the use of registrant-based or registration-based email addresses. It asserts the need for individual registrar control and encourages review of legal guidance on publishing unique contacts.
Registries Stakeholder Group (RySG)	The RySG expresses its satisfaction with the resolution of the EPDP-TempSpec. It appreciates the efforts of everyone involved in reaching consensus on complex data protection issues. The RySG believes that the EPDP-TempSpec has achieved a balance between privacy rights, legal obligations, and operational efficiency for their customers and businesses. It emphasizes that the legal vs. natural differentiation issue has been resolved and that maintaining the option for differentiation is a positive outcome. The RySG trusts the GNSO process to determine the need for future policy development and also raises concerns about recommendations that go beyond the scope of the EPDP-TempSpec. It also highlights the insufficiency of the guidance provided on legal vs. natural differentiation.
Security and Stability Advisory Committee (SSAC)	The SSAC believes it is crucial for security investigators to access domain name registration data while also ensuring protection for those who need it. It recommends focusing on building and operating an effective differentiated access system that is timely, reliable, useful, efficient, and easily accessed. The SSAC also suggests defining the legal status of registrants and allowing public availability of certain data. Additionally, it proposes exploring pseudonymous email contacts with appropriate safeguards. The SSAC emphasizes the need to achieve a balance that benefits all stakeholders and encourages the ICANN community to prioritize the development of an effective SSAD.

8 EPDP-TempSpec Policy Recommendations

Consideration and implementation of the policy recommendations from the Expedited Policy Development Process (EPDP) on the Temporary Specification for gTLD Registration Data (Temporary Specification or TempSpec) recommendations from Phases 1, 2, and 2A was split into multiple initiatives:

1. Drafting a new Registration Data Policy, a permanent Consensus Policy based on the following EPDP-TempSpec policy recommendations:
    a. EPDP-TempSpec Phase 1 policy recommendations 1-29[131]
    b. The GNSO Council's Supplemental Recommendation on the EPDP-TempSpec Phase 1 policy recommendation 12[132]
    c. EPDP-TempSpec Phase 2 policy recommendations 19-22[133]
2. Considering consensus policy recommendations for a System for Standardized Access/Disclosure (SSAD):
    a. EPDP-TempSpec Phase 2 policy recommendations 1-18[134]
    b. EPDP-TempSpec Phase 2A policy recommendations 1-4[135]
3. Design and implementation of a temporary Registration Data Request System ("RDRS") to gather data concerning demand and usage for the SSAD. The RDRS incorporates some, but not all, elements of the recommended SSAD, to provide additional data to inform the ICANN Board's and community's consideration of next steps of the recommended SSAD.

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[131] See 'Final Report of the Temporary Specification for GTLD Registration Data Expedited Policy Development Process,' 20 February 2019. https://gnso.icann.org/sites/default/files/file/field-file-attach/epdp-gtld-registration-data-specs-final-2-20feb19-en.pdf.

[132] See Council Resolutions 1999 - 2019. 'Motion - EPDP Phase 1 GNSO Council Supplemental Recommendation,' 19 December 2019. https://gnso.icann.org/en/council/resolutions/1999-2019#20191219-3.

[133] See 'Final Report of the Temporary Specification for GTLD Registration Data Phase 2 Expedited Policy Development Process,' 31 July 2020. https://gnso.icann.org/sites/default/files/file/field-file-attach/epdp-phase-2-temp-spec-gtld-registration-data-2-31jul20-en.pdf.

[134] See 'Final Report of the Temporary Specification for GTLD Registration Data Phase 2 Expedited Policy Development Process.'

[135] See 'Final Report of the Temporary Specification for GTLD Registration Data Phase 2A Expedited Policy Development Process.' 3 September 2021. https://gnso.icann.org/sites/default/files/file/field-file-attach/epdp-phase-2a-updated-final-report-13sep21-en.pdf.

9 Registration Data Policy

Developing a New Registration Data Consensus Policy

The development and implementation of the Registration Data Policy is a comprehensive effort between the ICANN organization and ICANN community to synthesize the EPDP-TempSpec Team's policy recommendations and produce a final Consensus Policy.

The Registration Data Policy is based on policy recommendations from EPDP-TempSpec Phases 1 and 2. Specifically, Phase 1 policy recommendations 1-29 lay the foundational framework, addressing critical aspects such as requirements for contracted parties' data collection, processing, and third-party access to registration data, while enabling contracted parties to comply with applicable data protection laws, notably the European Union's General Data Protection Regulation (GDPR).

When the ICANN Board first considered the EPDP-TempSpec Phase 1 policy recommendations, it did not at the time adopt recommendation 12 with respect to the option to delete data in the organization field.[136] The GNSO Council approved an amendment to recommendation #12[137] which the ICANN Board approved in February 2022.[138] The original recommendation 12 allowed registrars the option to redact or delete the contents of the organization field if the registrant either declined to respond or chose not to provide organizational data. The supplemental recommendation reaffirms this approach but adds implementation guidance which directs that before any deletion or redaction of the organization field, registrars must ensure that each domain registration includes complete contact information for the registered name holder.

Phase 2 policy recommendations 19-22 delved deeper into unresolved topics from Phase 1, including the display of information of affiliated and/or accredited privacy/proxy providers, the redaction of the city field for registrants, data retention, and recognition of an additional purpose for processing gTLD registration data.

The first step in implementation was the establishment of the Interim Registration Data Policy for gTLDs in May 2019.[139] This policy was established to bridge the gap between the expiration of the Temporary Specification for gTLD Registration Data and the implementation of the EPDP-TempSpec policy recommendations. The Interim Policy mandates that gTLD registry operators and ICANN-accredited registrars continue to adhere to measures consistent with the Temporary Specification for gTLD Registration Data on an interim basis until the Registration Data Policy is implemented.

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[136] See Approved Board Resolutions | Special Meeting of the ICANN Board. 'Consideration of GNSO EPDP Recommendations on the Temporary Specification for GTLD Registration Data', 15 May 2019. https://www.icann.org/en/board-activities-and-meetings/materials/approved-resolutions-special-meeting-of-the-icann-board-15-05-2019-en#1.b.

[137] See 'Motion - EPDP Phase 1 GNSO Council Supplemental Recommendation'.

[138] See Approved Board Resolutions | Special Meeting of the ICANN Board. 'GNSO Supplemental Recommendation on EPDP Phase 1 Recommendation 12', 24 February 2022. https://www.icann.org/en/board-activities-and-meetings/materials/approved-resolutions-special-meeting-of-the-icann-board-24-02-2022-en#2.b.

[139] See 'Interim Registration Data Policy for GTLDs - ICANN.' https://www.icann.org/resources/pages/interim-registration-data-policy-en.

Next, the ICANN organization convened the Registration Data Policy Implementation Review Team (IRT), which consisted of members from the EPDP-TempSpec Team and other interested ICANN community members. The role of the IRT was to provide input to the ICANN organization Implementation Project Team (IPT) as the IPT responded to the EPDP-TempSpec policy recommendations and drafted the new Registration Data Policy.[140] A significant aspect of the IRT work involved identifying and resolving issues such as drafting errors or interpretational ambiguities within the policy recommendations. In addition, the IRT was tasked with providing regular progress reports and feedback to the GNSO and other ICANN entities, detailing the challenges, developments, and achievements of implementation.

The Registration Data Policy implementation plan included the following activities:[141]

- Collaborating with the GNSO Council and ICANN Board to resolve issues with EPDP-TempSpec Phase 1 recommendations 7 and 12
- Research and reports on data retention,[142] the process for handling registrar data retention waiver requests,[143] legal vs. natural persons,[144] and analyses of impacts to existing policies and procedures[145,146]
- Drafting amendments to update existing Consensus Policy provisions impacted by the recommendations
- Drafting a new Registration Data Policy
- Drafting template data protection agreements that contracted parties can elect to enter into with ICANN in furtherance of the contracted parties' data protection compliance efforts
- Collaborating with the Registration Data Access Protocol (RDAP) Working Group to develop revised versions of the RDAP Technical Implementation Guide and RDAP Response Profile

[140] See 'Registration Data Policy Implementation - Registration Data Policy IRT - Global Site'. https://community.icann.org/display/RDPIRT/Registration+Data+Policy+Implementation.

[141] See 'Registration Data Policy Implementation Timeline', 4 August 2023. https://community.icann.org/display/RDPIRT/RegDataPolicy+Implementation+Resource+Documents?preview=/124847947/255459590/RegDataPolicy%20Timeline%20(04%20August%202023).pdf.

[142] See 'Data Retention: Review of ICANN Org Processes, EPDP Recommendation 15.1', 1 November 2019. https://community.icann.org/display/RDPIRT/RegDataPolicy+Implementation+Resource+Documents?preview=/124847947/124847953/15.1%20Data%20Retention_%20%20Review%20of%20ICANN%20Org%20Processes-1nov19.pdf.

[143] See 'Review of ICANN Process for Handling Registrar Data Retention Waiver Requests', 6 December 2019. https://community.icann.org/display/RDPIRT/RegDataPolicy+Implementation+Resource+Documents?preview=/124847947/147850713/Rec15-4-Data-Retention-Waiver-Pro-6dec19%5B2%5D.pdf.

[144] See 'Differentiation between Legal and Natural Persons in Domain Name Registration Data Directory Services (RDDS)', 8 July 2020. https://community.icann.org/display/RDPIRT/RegDataPolicy+Implementation+Resource+Documents?preview=/124847947/140248397/Rec17.2_Legal-Natural_8jul20%5B1%5D.pdf.

[145] See 'EPDP Phase 1 Recommendation 27: Registration Data Policy Impacts, Wave 1 Report', 18 February 2020. https://community.icann.org/display/RDPIRT/RegDataPolicy+Implementation+Resource+Documents?preview=/124847947/138969903/Rec27-Wave1-Updated-14feb20.pdf.

[146] See 'EPDP Phase 1 Recommendation 27: Registration Data Policy Impacts, Wave 1.5 Report', 23 February 2021. https://community.icann.org/display/RDPIRT/RegDataPolicy+Implementation+Resource+Documents?preview=/124847947/159482608/EPDPP1Rec27Wave1.5-23feb21-0001.pdf.

Draft Registration Data Policy

The ICANN organization published the draft policy language for the Registration Data Policy on 24 August 2022.[147] It detailed the draft policy requirements related to collection of registration data, transfer of registration data from registrar to registry operator, transfer of registration data to data escrow providers, publication of domain name registration data, disclosure requests, log files, and the retention of registration data.

Along with the draft text of the new Registration Data Policy, the ICANN organization also sought Public Comment on the updated RDAP technical implementation guide and response profile as well as the redlined existing policies identified by the IPT that would be impacted by the new Registration Data Policy.[148] The IPT conducted an extensive review and analysis of 24 existing policies and procedures, discovering that 18 were significantly affected by the new Registration Data Policy. These impacts ranged from the presence of outdated language in provisions, such as references to administrative contact requirements, to broader issues like the relevance or alignment of current policies with the newly established Registration Data Policy. This review also highlighted implications for existing contractual terms. Conversely, it was determined that three of these policies and procedures remained unaffected by the changes introduced in the new policy. One advisory was reissued rather than redlined as part of the recommendation 27 review.

During Public Comment, the ICANN organization received a total of 14 submissions categorized into the following categories:

1. Comments suggesting that the draft policy language requires additional clarifications
2. Comments suggesting that the draft policy language does not accurately reflect the EPDP-TempSpec Phase 1 policy recommendations
3. Comments identifying additional concerns or issues in the draft policy language
4. General comments
5. Comments suggesting the proposed redlines made to policies and procedures are inaccurate.[149]

The IPT prepared responses to the Public Comment submissions, organized into three sections:

1. Major themes of submissions received
2. Specific comments that resulted in changes to the draft Registration Data Policy and/or redlined policies and procedures
3. Specific comments considered that did not result in changes to the draft Registration Data Policy and/or redlined policies and procedures.[150]

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[147] See Public Comment. 'Registration Data Consensus Policy for GTLDs', https://www.icann.org/en/public-comment/proceeding/registration-data-consensus-policy-for-gtlds-24-08-2022

[148] See 'EPDP Phase 1 Recommendation 27 List of Redlined Existing Policies and Procedures Reviewed for Impacts by the Registration Data Policy'. ICANN, https://itp.cdn.icann.org/en/files/contracted-parties/recommendation-27-redlined-policies-procedures-24-08-2022-en.pdf.

[149] See Public Comment Summary Report Registration Data Consensus Policy for gTLDS, https://itp.cdn.icann.org/en/files/contracted-parties/public-comment-summary-report-registration-data-consensus-policy-gtlds-20-01-2023-en.pdf

[150] See ICANN org Review of Public Comments, Registration Data Consensus Policy for gTLDs, https://community.icann.org/display/RDPIRT/RegDataPolicy+Implementation+Resource+Documents?preview=/124847947/240617961/Public%20Comment%20Report%20Addendum%20-%20Responses%20to%20Registration%20Data%20Public%20comment.pdf

Section	Summary of IPT Responses
Major Themes of Comments Received	• **Data Protection Agreements**: The IPT acknowledged several comments on the time needed to complete negotiations, a perceived lack of clarity about obligations and roles, consistency with EPDP-TempSpec Phase 1 policy recommendations, the impact on Thick WHOIS Policy, and the need for an update method for the template agreements once published. • **NIS2 Directive**: The IPT clarified that the "Directive on measures for a high common level of cybersecurity across the Union" (NIS2 Directive) in the European Union does not directly impact ICANN policy requirements, indicating that changes in law necessitate separate policy modification mechanisms. • **Thick WHOIS Policy**: In response to input on the transfer of registration data from registrars to registries, the IPT emphasized that such transfers depend on legal bases determined by the registry and registrar and the existence of data protection agreements. • **Reseller Field**: The IPT decided against additional changes to the policy language for the reseller field, maintaining that current business practices allow for optional collection, transfer, and publication of this field. • **Urgent Requests for Disclosure**: The IPT agreed to implement a 24-hour response time for urgent requests for disclosure, reflecting the urgency of these situations. (See Section 3.3 for more information on Urgent Requests for Disclosure). • **Out of Scope Comments**: Several comments were determined to be out of the scope of the policy, such as expanding its scope, including requirements related to costs for disclosing Registration Data, and defining "Resellers"
Specific Comments Resulting in Changes	The IPT made changes to the draft policy, including clarifications in the introduction, scope, definitions and interpretation, and other sections. These changes were in response to feedback that highlighted areas needing more clarity or correction.
Specific Comments Not Resulting in Changes	The IPT considered numerous suggestions, such as redefining terms or adjusting draft policy language, but decided not to implement these changes due to the need for alignment with existing policies, legal requirements, or the necessity of remaining consistent with EPDP-TempSpec Phase 1 recommendations.

Following Public Comment, the IPT iterated on the draft Registration Data Policy with input from the IRT and produced new versions in April,[151] June,[152] and July[153] 2023.

Timeline to Respond to Urgent Requests for Disclosure of Domain Name Registration Data

On 23 August 2023, the Governmental Advisory Committee (GAC) wrote to the ICANN Board expressing concern over the IRT's disagreement with the IPT's position regarding the required response time for urgent requests for disclosure.[154] The IRT reverted the period to three business days. The GAC noted that the possibility of two extensions, totaling up to three business days, would not meet the intended purpose of providing a reasonable window to respond to emergency or urgent requests. The GAC further noted that the use of "business days" language left room for uncertainty in the process, given the diversity of global holidays and work weeks, potentially extending the timelines significantly beyond three calendar days. The GAC believed the Section 10.6 of the Registration Data Policy, regarding urgent requests, was not ready for publication and requested further consideration. The GAC suggested adopting the ICANN organization proposal from its analysis of input received during the Public Comment proceeding, or convening an ICANN Board discussion with the IRT to address public safety concerns.

To provide additional context and detail to the ICANN Board's considerations following the GAC letter, the Registrar Stakeholder Group (RrSG) wrote a letter to the ICANN Board on 8 September 2023.[155] The RrSG noted that the IPT proposed to update the urgent request timeline before consulting the full IRT, prompting the IRT to hold several meetings for the purpose of finding a compromise. In a 24 July 2023 meeting, a compromise was reached which slightly altered the response timeframe to require registrars and registry operators to respond to requests for lawful disclosure within 24 hours of receipt for the urgent request, with the possibility of extending the response time by one additional business day. The GAC, however, objected to the compromise.

The RrSG further noted that the IRT and IPT's duties were to implement the EPDP-TempSpec Team's recommendations and not to make policy decisions. As such, the policy language may not completely satisfy all parties but will represent a balanced and reasonable compromise among diverse viewpoints.

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[151] See RegDataPolicy Implementation Resource Documents, 'Registration Data Policy - Redline Version Post Public Comment' 28 April 2023. https://community.icann.org/display/RDPIRT/RegDataPolicy+Implementation+Resource+Documents?preview=/124847947/240617953/Registration%20Data%20Policy%20-%20Redline%20Version%20Post%20Public%20Comment.pdf.

[152] See RegDataPolicy Implementation Resource Documents, 'The Registration Data Policy as of 30 June 2023.' https://community.icann.org/display/RDPIRT/RegDataPolicy+Implementation+Resource+Documents?preview=/124847947/244945954/Post%20PC%20-%20OneDoc%20RegDataPolicy%20(30%20June%202023).pdf.

[153] See RegDataPolicy Implementation Resource Documents, 'The Registration Data Policy as of 24 July 2023.' https://community.icann.org/display/RDPIRT/RegDataPolicy+Implementation+Resource+Documents?preview=/124847947/250710295/irt.RegDataPolicy20240724.pdf.

[154] See Letter from Nicolas Caballero to Tripti Sinha, 23 August 2023. https://www.icann.org/en/system/files/correspondence/caballero-to-sinha-23aug23-en.pdf

[155] See Letter from Ashley Heineman to Tripti Sinha, 8 September 2023. https://www.icann.org/en/system/files/correspondence/heineman-to-sinha-08sep23-en.pdf

In response to the GAC's claim that the 24 July 2023 compromise language called into question the effectiveness of Public Comment, the RrSG underscored that the Public Comment submissions on the urgent request time frame did not introduce new information. The IPT, after reviewing all Public Comment submissions, had proposed a new timeline, which, when not fully supported by the IRT, led to further efforts by the IPT to understand and integrate the various positions of the IRT members. The result was the 24 July 2023 compromise which, while not ideal for any single group, was the best possible solution under the circumstances.

The RrSG expressed willingness to accept the compromise language developed in the 24 July 2023 IRT meeting even though it preferred the August 2022 Public Comment version of the Registration Data Policy. The RrSG emphasized the importance of adhering to the standard that PDP policy recommendations should be implemented as written and not be substantially altered by the IRT or IPT. The RrSG warned that disregarding the compromises reached by the IRT in favor of the GAC's last-minute proposal would significantly deviate from the multistakeholder model of policy development. The RrSG recommended publication of the Registration Data Policy with a response time for urgent disclosure requests that aligns with the original recommendation text, honoring the extensive efforts and contributions of all IRT members.

Registration Data Policy Updates and Next Steps

In November 2023, the ICANN organization published a draft of the Registration Data Policy that removed the references to "Urgent Requests for Lawful Disclosure."[156] Once the IPT finalizes the Consensus Policy language, the next step is for the ICANN organization to notify the Contracted Parties of the Consensus Policy and its effective date. During this stage, Contracted Parties will implement the Interim Registration Data Policy, the Registration Data Policy, or elements of both as they prepare for the effective date of the Registration Data Policy. After the effective date, the Registration Data Policy will be obsolete.

[156]See RegDataPolicy Implementation Resource Documents, 'The Registration Data Policy as of 13 November 2023 (without Urgent Requests).' https://community.icann.org/display/RDPIRT/RegDataPolicy+Implementation+Resource+Documents?preview=/124847947/280297769/Registration%20

10

System for Standardized Access/Disclosure (SSAD) and Registration Data Request System (RDRS)

SSAD Operational Design Phase

Phase 2 of the EPDP-TempSpec focused on the recommendation for the creation of a system of access and disclosure of registration data that is collected by the contracted parties but is not published in the public registration data directory services. The EPDP-TempSpec Phase 2 Team published its final report in July 2020.[157]

The EPDP-TempSpec Phase 2 recommendations 1-18 outlined the requirements for aSystem for Standardized Access and Disclosure (SSAD). The Phase 2 team developed recommendations for the SSAD with the aim to provide a centralized system that would streamline the process for third parties to request access to nonpublic gTLD registration data from the contracted parties. The policy recommendations recognize the contracted parties' discretion, as a matter of ICANN consensus policy, concerning disclosure to ensure the contracted parties can comply with both ICANN policy and applicable law, such as the GDPR. Following the approval of the EPDP-TempSpec Phase 2 Final Report Priority 1 Recommendations by the ICANN Board in March 2021, the ICANN organization started an Operational Design Phase (ODP) for the SSAD.[158] The ICANN organization launched the ODP for the SSAD recommendations on 29 April 2021 to assess the potential risks, anticipated costs, resource requirements, timelines, dependencies, interaction with the Global Public Interest Framework, and other matters related to the implementation of the SSAD-related recommendations.[159] The output of an ODP is called the Operational Design Assessment (ODA).

On 25 January 2022, the ICANN organization published the ODA,[160] identifying a number of challenges with SSAD as proposed by the recommendations.[161] The ODA served as an input to the ICANN Board's deliberations concerning the SSAD-related recommendations set forth in the EPDP-TempSpec Phase 2 Final Report, including whether its adoption of the policy recommendations would be in the best interest of the ICANN community and ICANN.

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[157] See Final Report of the Temporary Specification for gTLD Registration Data Phase 2 Expedited Policy Development Process, https://gnso.icann.org/sites/default/files/file/field-file-attach/epdp-phase-2-temp-spec-gtld-registration-data-2-31jul20-en.pdf

[158] See Approved Board Resolutions | Regular Meeting of the ICANN Board 25 March 2021, https://www.icann.org/en/board-activities-and-meetings/materials/approved-resolutions-regular-meeting-of-the-icann-board-25-03-2021-en#2.c

[159] See 'ICANN Organization Launches Operational Design Phase for System for Standardized Access/Disclosure,' 29 April 2021. https://www.icann.org/en/announcements/details/icann-organization-launches-operational-design-phase-for-system-for-standardized-accessdisclosure-29-4-2021-en.

[160] See System for Standardized Access/Disclosure (SSAD) Operational Design Assessment (ODA), https://www.icann.org/en/system/files/files/ssad-oda-25jan22-en.pdf

[161] See ICANN Delivers Operational Design Assessment of SSAD Recommendations, https://www.icann.org/en/announcements/details/icann-delivers-operational-design-assessment-of-ssad-recommendations-25-1-2022-en

The ODA addressed various aspects, including risks, costs, timelines, legal considerations, and operational readiness:

- **Operational Readiness**: The SSAD would involve the verification and accreditation of requestors and representatives through a Central Accreditation Authority (Central AA) and Governmental Accreditation Authorities (AAs). The selection and appointment of AAs would be determined internally by respective governments. Legal considerations and risks, such as compliance with data protection regulations, evolving privacy laws, and litigation risks, were thoroughly explored.
- Timeline: The ICANN organization estimated a five- to six-year timeline for the development and implementation of the SSAD, which includes collaboration with the Implementation Review Team (IRT).
- **SSAD Operations**: The SSAD comprises 60 processes involving eight types of actors and eight subsystems. Requestors interact with AAs, who relay disclosure requests through a Central Gateway System. Approved disclosure requests can be queried through the Contracted Parties' Registration Data Access Protocol (RDAP) services.
- **Systems and Tools Needed**: Two systems, namely the Central AA system and the Central Gateway System, would be deployed to facilitate SSAD operations. Existing ICANN services would require enhancements to support the SSAD.
- **Vendors and Third Parties**: Seven vendor functions, including system development, audit, and customer service, were identified. Vendor selection would adhere to ICANN's established procurement process.
- **Resources and Staffing**: Although outsourcing is recommended, ICANN organization personnel would still be involved in various tasks throughout the three phases of SSAD implementation.
- **Costing**: The development and implementation costs of the SSAD range from $20-27 million, with estimated annual operating costs ranging between $14 million and $106 million. Three proposed fees aim to recover these costs.
- **Risks**: Several risks were identified, including potential liability, litigation, regulatory inquiries, compliance with evolving data protection laws, security risks, financial sustainability, and reputational risks to ICANN.
- **Global Public Interest Framework**: The EPDP-TempSpec Phase 2 recommendations were assessed within the Global Public Interest Framework. While the recommendations appeared to be in the public interest, further considerations were deemed necessary.
- **Contractual Compliance and Audit**: The role of ICANN Contractual Compliance would involve investigating complaints related to SSAD operations, and audits would focus on compliance with established accreditation policies and procedures.

Registration Data Request Service

Following the publication of the Operational Design Assessment (ODA), the GNSO Council formed a small team comprising GNSO Council members and EPDP-TempSpec Team members. The purpose of this team was to support the GNSO Council in reviewing the ODA and to provide input on the consultation process between the ICANN Board and the GNSO Council regarding the cost-benefit analysis of the SSAD recommendations.

In its preliminary report,[162] the small team raised concerns about the insufficiency of information in the ODA to assess the cost and benefit of the SSAD recommendations. To address this, it recommended implementing a proof-of-concept approach to gather more data and make an informed decision on the SSAD recommendations. Consequently, the GNSO Council requested the ICANN Board to instruct the ICANN organization to develop this proof of concept, which was originally known as the Whois Disclosure System. The purpose of the Whois Disclosure System is to simplify the process of requesting and receiving nonpublic gTLD registration data in a cost-effective manner.

In September 2022, the ICANN organization published the design paper for the Whois Disclosure System[163] and presented it to the GNSO Council and the small team. The design paper outlined the proposed system, which was based on the Centralized Zone Data Service (CZDS) design pattern. The proposed design leveraged existing technologies already in use at ICANN org to connect requestors with relevant ICANN-accredited registrars, streamlining the process of accessing nonpublic registration data. The design paper included various components such as system mockups, an estimated implementation timeline, associated costs, assumptions, and identified risks.

While the Whois Disclosure System deviated from certain SSAD-related recommendations, such as excluding central accreditation authorities, identity verification, and billing functions, it allowed for future consideration of additional functionalities if deemed necessary by the ICANN Board and ICANN community.

The small team reviewed the design paper and provided an addendum[164] to their preliminary report after consulting with the ICANN organization. In the addendum, they confirmed that the proposed design met expectations but suggested updates to enhance its effectiveness. These updates included logging requests from non-participating registrars, notifying registrars about disclosure requests, allowing requestors to download data request forms, and enabling consent for information forwarding. Additionally, the small team discussed future considerations, such as reporting monthly statistics and periodically evaluating the system. It recommended temporarily pausing the consideration of SSAD recommendations until the Whois Disclosure System was operational. Clarity on the next steps for the SSAD recommendations is expected within a two-year timeframe.

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[162] See 'EPDP Phase 2 Small Team Preliminary Report to the GNSO Council – 4 April 2022'. https://gnso.icann.org/sites/default/files/policy/2022/correspondence/ducos-to-gnso-council-et-al-04apr22-en.pdf.

[163] See 'WHOIS Disclosure System Design Paper,' 13 September 2022. https://www.icann.org/en/system/files/files/whois-disclosure-system-design-paper-13sep22-en.pdf.

[164] See 'EPDP Phase 2 Small Team – Addendum to Preliminary Report,' 7 November 2022. https://gnso.icann.org/sites/default/files/policy/2022/correspondence/ducos-to-gnso-council-07nov22-en.pdf.

On 27 February 2023, the ICANN Board resolved to develop and launch the Whois Disclosure System as requested by the GNSO Council.[165] The ICANN Board directed the ICANN organization to develop and launch the system within 11 months from the date of the resolution. Furthermore, the ICANN Board authorized the collection and reporting of usage data for the system during its operational period of up to two years from the date of launch. The ICANN Board also emphasized the importance of ongoing engagement between the ICANN organization and the GNSO Council concerning the implementation of the Whois Disclosure System, including discussions about its name. The small team, ICANN organization, and GNSO Council were encouraged to work collaboratively to ensure comprehensive usage of the system by data requestors and ICANN-accredited registrars. The ICANN Board urged the GNSO Council to consider initiating a policy development process or other means to require registrars to use the Whois Disclosure System, as recommended by the small team in its addendum.

Following the ICANN Board decision, the small team met with the ICANN organization in March 2023 to discuss next steps and future engagement on the implementation process. In addition to reviewing the timeline and upcoming milestones for implementation, the small team agreed on a new name for the system that better reflects what the system does in practice. As a result, it would now be called the Registration Data Request Service (RDRS).[166]

To monitor the success of RDRS, the small team developed a set of proposed success criteria, at the request of the ICANN Board, in June 2023.[167] The main and overarching success criteria of the RDRS is: Has the experience with the RDRS sufficiently informed the GNSO Council and ICANN Board to make a decision with regard to the SSAD recommendations?

The small team considers that at a minimum the following criteria would need to be met in order to be able to provide the relevant information to the GNSO Council and ICANN Board. The Board shared its observations on these specific criteria[168]:

1. The RDRS should be available to all possible requestors to submit their data requests. The ICANN Board noted this is an important service requirement as opposed to success criteria.
2. The RDRS should be available to all interested ICANN-accredited registrars to participate. The ICANN Board noted this is an important service requirement as opposed to success criteria.
3. The RDRS should track all relevant data points as identified by the small team. The ICANN Board agreed with the data points identified for collection and also noted this criterion is a service requirement.
4. Sufficient number of registrars participate reflecting a sufficient number of domain name registrations under management so that statistically significant data can be obtained. The ICANN Board agreed this is an important measurement for the system.

[165] See Approved Resolutions | Special Meeting of the ICANN Board | 27 February 2023, https://www.icann.org/en/board-activities-and-meetings/materials/approved-resolutions-special-meeting-of-the-icann-board-27-02-2023-en#section1.a

[166] See Registration Data Request Service (RDRS) Work Summary, https://www.icann.org/resources/pages/rdrs-work-summary-2023-06-05-en

[167] See Letter from Sebastien Ducos to Tripti Sinha, 1 June 2023. https://gnso.icann.org/sites/default/files/policy/2023/correspondence/ducos-to-icann-board-01jun23-en.pdf

[168] See Letter from Tripti Sinha to Gregory DiBiase, 'Re: Proposed Success Criteria for the Registration Data Request Service (RDRS),' 13 November 2023. https://gnso.icann.org/sites/default/files/policy/2023/correspondence/sinha-to-dibiase-13nov23-en.pdf.

5. Sufficient number of requests are made by requestors so that statistically significant data can be obtained (note, a volume that is too low to provide significant data could still be considered a success as it may demonstrate lack of demand for the service but if there are sufficient requests, ideally this is of a level that statistically significant data can be derived from it). The ICANN Board noted that there is currently no defined "population" of requestors to be considered as baseline, nor are there other data sets to compare for statistical significance, and that any number of requests should be considered sufficient and statistically significant.
6. Registrar and requester user satisfaction with the service should be measured (note, this should not focus on the outcome of requests but on experience with the service itself). The ICANN Board noted this is an important service requirement as opposed to success criteria. The ICANN Board also noted that it agreed that it will be important to clearly distinguish between the user's ease of use with the service and user satisfaction with the outcomes.

The ICANN organization announced that starting 20 September 2023, ICANN gave registrars early access to the RDRS through the Naming Services portal to allow them to gain familiarity with the service, prepare for incoming requests, add additional users, and set up an optional encrypted email feature to receive requests via email.[169]

The RDRS officially launched on 28 November 2023 as a new service that introduces a more consistent and standardized format to handle requests for access to nonpublic registration data related to gTLDs.[170] Following the launch, the ICANN organization will publish usage statistics of RDRS on a regular basis to inform periodic check-in discussions with the GNSO Council. The ICANN Board expects that no later than two years after the RDRS goes into operation, the ICANN Board and GNSO Council will re-initiate discussions about next steps on the policy recommendations regarding the System for Standardized Access and Disclosure.

[169] See ICANN to Provide RDRS Early Access for Registrars and Supporting Webinars, https://www.icann.org/en/announcements/details/icann-to-provide-rdrs-early-access-for-registrars-and-supporting-webinars-12-09-2023-en

[170] See 'Press Release: ICANN Launches Global Service to Simplify Requests for Nonpublic Domain Name Registration Data," 28 November 2023. https://www.icann.org/resources/press-material/release-2023-11-28-en.

11

GNSO Registration Data Accuracy Scoping Team

The GNSO Council established the Registration Data Accuracy Scoping Team in October 2020 to address the impact of the General Data Protection Regulation (GDPR) on registration data accuracy requirements and the Whois Accuracy Reporting System (ARS).[171] The scoping team has four tasks:

1. **Enforcement and reporting**: Evaluate how ICANN Contractual Compliance monitors and enforces accuracy obligations in the Registry Agreement and the Registrar Accreditation Agreement. Propose working definitions if needed for registration data accuracy.
2. **Measurement of accuracy**: Recommend methods to determine and measure accuracy levels. Assess the improvement of the Whois Accuracy Reporting System (ARS) or explore alternative approaches.
3. **Effectiveness**: Analyze measured accuracy levels to determine if existing obligations ensure registered name holders provide correct and reliable contact information.
4. **Impact and improvements**: Assess the need for changes to enhance accuracy levels. Consider costs and benefits and recommend the development process, such as a GNSO policy development process or contractual negotiations.

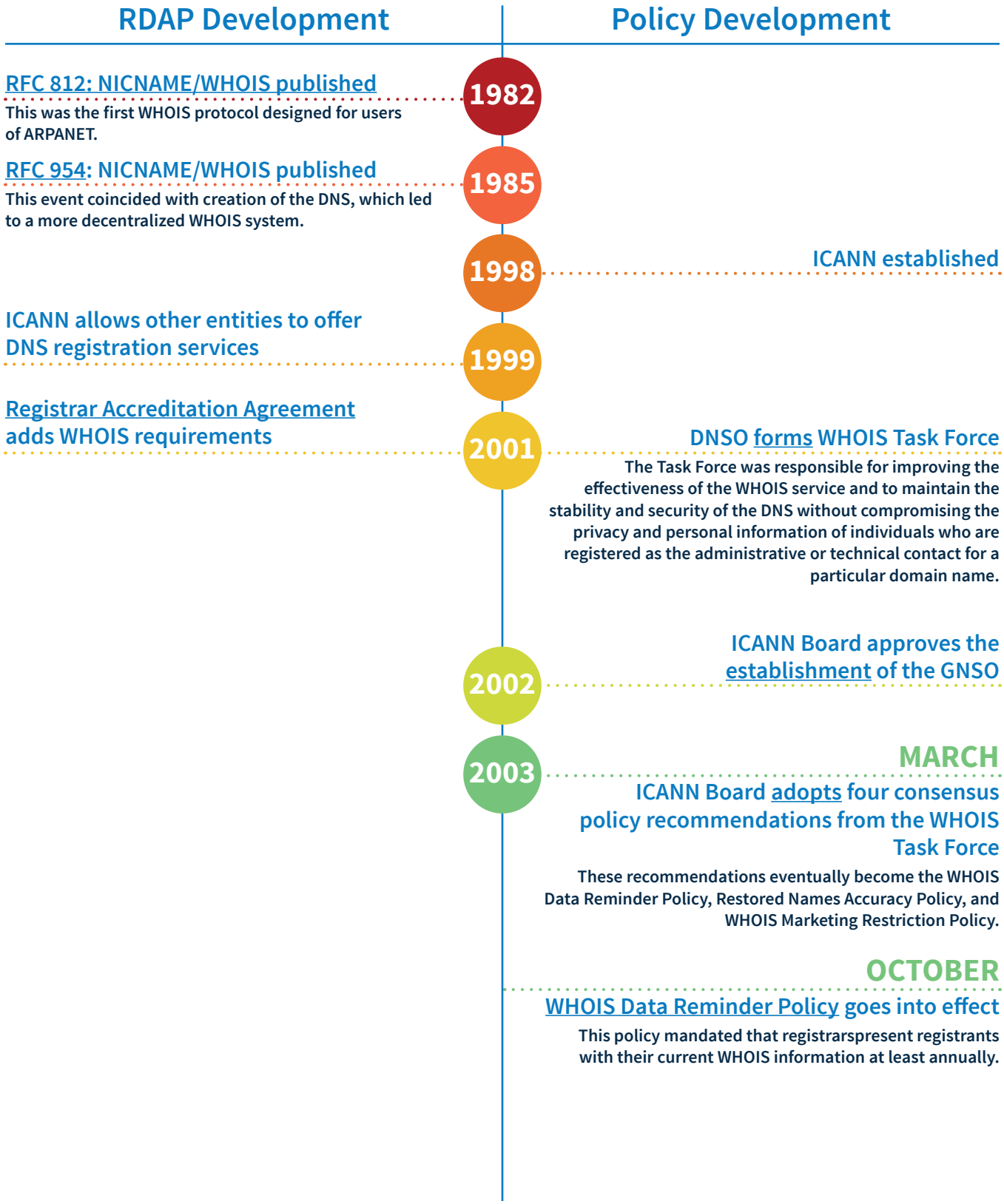
On September 2, 2022, the scoping team submitted tasks 1 and 2 on enforcement and reporting and measurement of accuracy to the GNSO Council for review.[172] In its report, the scoping team made the following recommendations:

- **Recommendation #1**: Request that the ICANN organization conduct a registrar survey as outlined in Annex D of the document.
- **Recommendation #2**: Collaborate with the ICANN organization to explore the option of conducting a registrar audit; define the scope of testing to evaluate registration data accuracy, ensuring compliance with agreements and laws; and share the conclusion with the GNSO Council for review and approval.
- **Recommendation #3**: Pause the work of the scoping team on proposals requiring access to registration data until the viability of such proposals to assess accuracy is clearer.

In November 2022, the GNSO Council reviewed the scoping team's Findings Report[173] and adopted recommendation #3, pausing the work on proposals for the Scoping Team to complete its work under assignment 2 that require registration data access. The GNSO Council deferred consideration of recommendations #1 and #2 until the completion of data processing agreement negotiations and feedback from the ICANN organization on the anticipated approach to requesting and processing registration data in the context of measuring accuracy, or for a period of six months, whichever is shorter. As of August 2023, GNSO Council extended the pause of the scopting team recommendations until the negotiations are complete or January 2024, whichever is earlier.[174]

[171] See 'Council Resolutions 2020 - Current, 20201021,' 21 October 2020. https://gnso.icann.org/en/council/resolutions/2020-current#20201021.
[172] See 'Registration Data Scoping Team Deliberations & Findings for Assignments #1 and #2,' 2 September 2022. https://gnso.icann.org/sites/default/files/policy/2022/correspondence/palage-et-al-to-gnso-council-rda-assignments-et-al-05sep22-en.pdf
[173] See 'Registration Data Scoping Team Deliberations & Findings for Assignments #1 and #2,' 2 September 2022.
[174] See Letter from Sebastien Ducos to Ashley Heineman, Samantha Demetriou, and Theresa Swinehart, 3 August 2023. https://gnso.icann.org/sites/default/files/policy/2023/correspondence/ducos-to-heineman-et-al-03aug23.pdf.

Annex A. Timeline of RDAP and Policy Development Events Described in Module 1



RDAP Development

Policy Development

2004

SEPTEMBER

RFC 3912: WHOIS Protocol Specification published

This revision allowed querying any WHOIS server on the Internet to obtain information about registered domain names and IP addresses. It was versatile enough to accommodate varying database structures and query languages.

NOVEMBER

Restored Names Accuracy Policy and WHOIS Marketing Restriction Policy go into effect

The Restored Name Accuracy Policy provided registrars with the ability to cancel domain name registrations under specific circumstances. The WHOIS Marketing Restriction Policy mandated restrictions on the use, sale, and redistribution of bulk data.

2009

APRIL

SAC037: Display and Usage of Internationalized Registration Data published

SAC037 highlighted the challenges and considerations associated with non-American Standard Code for Information Interchange (ASCII) characters in domain names and contact information, emphasizing the need for accurate representation and accessibility.

JUNE

GNSO Council initiates IRTP-B PDP on Undoing Registrar Transfers

Recommendations from IRTP-B were incorporated in the Additional WHOIS Information Policy and Thick WHOIS Policy.

SEPTEMBER

ICANN signs the Affirmation of Commitments with the U.S. Department of Commerce

ICANN additionally commits to enforcing its existing policy relating to WHOIS, subject to applicable laws. Existing policy requires that ICANN implement measures to maintain timely, unrestricted, and public access to accurate and complete WHOIS information.

SEPTEMBER

GNSO Council convenes Internationalized Registration Data Working Group

The working group's final report recommends starting the Translation and Transliteration of Contact Information PDP.

ICANN initiates the first WHOIS Policy Review

2010

2011

AUGUST

ICANN Board accepts IRTP-B PDP recommendations

SEPTEMBER

SAC051: SSAC Report on Domain Name WHOIS Terminology and Structure published

SAC051 recommendations led to ICANN standardizing WHOIS terminology and the development of RDAP.

SEPTEMBER

GNSO Council initiates IRTP-C PDP on operational rule enhancements

Recommendation 3 from IRTP-C was incorporated in the Additional WHOIS Information Policy.

RDAP Development

Policy Development

2012

MARCH

GNSO Council initiates Thick WHOIS PDP

Implementation of the thick WHOIS policy recommendation produced the Thick WHOIS Transition Policy for .COM, .NET and .JOBS and the Registry Registration Data Directory Services Consistent Labeling and Display Policy.

APRIL

IETF charters WHOIS Enhanced Response Data Sharing Working Group (WEIRDS)

WEIRDS is responsible for determining the general needs of a lookup service to permit public access to some portion of the registry database and to standardize a single data framework.

MAY

ICANN Board accepts Additional WHOIS Information Policy

JUNE

ICANN publishes roadmap to implement SAC051

NOVEMBER

ICANN Board accepts WHOIS Policy Review Final Report

The report recommends a working group to determine appropriate internationalized domain name registration data requirements.

DECEMBER

ICANN Board accepts IRTP-C PDP recommendations

2013

JUNE

GNSO Council initiates Translation and Transliteration of Contact Information PDP

JULY

2013 New gTLD Registry Agreement is approved with a provision for RDAP

Specification 4 on the Registration Data Publication Services includes a provision to "implement a new standard supporting access to domain name registration data no later than 135 days after it is requested by ICANN if: 1) the IETF produces a standard (i.e., it is published, at least, as a Proposed Standard RFC as specified in RFC 2026); and 2) its implementation is commercially reasonable in the context of the overall operation of the registry."

OCTOBER

GNSO Council initiates Privacy and Proxy Services Accreditation Issues PDP

2014

FEBRUARY

ICANN Board adopts recommendation for registries to enact Thick WHOIS

Thick WHOIS PDP Final Report recommends implementation through an update to the Registrar Accreditation Agreement.

JUNE

Implementation Review Team convenes for Thick WHOIS policy recommendations

RDAP Development

Policy Development

MARCH

IETF publishes a set of RFCs to define RDAP

RFC 7480: HTTP Usage in the RDAP,
RFC 7481: Security Services for the RDAP,
RFC 7482: RDAP Query Format,
RFC 7483: JSON Responses for the RDAP,
RFC 7484: Finding the Authoritative Registration Data (RDAP) Service, and
RFC 7485: Inventory and Analysis of WHOIS Registration Objects

DECEMBER

ICANN publishes proposed draft of the RDAP operational profile

2015

SEPTEMBER

ICANN Board accepts Translation and Transliteration of Contact Information PDP recommendations

The working group did not recommend mandating the translation or transliteration of contact information data. Instead, it recommended that registrants submit contact data in any language and script supported by their registrar, ideally the registrant's native one.

2016

JANUARY

Additional WHOIS Information Policy goes into effect

JULY

ICANN publishes RDAP Operational Profile for gTLD Registries and Registrars

JULY

Implementation Review Team convenes for translation and transliteration of contact information policy recommendations

AUGUST

RySG requests a modified plan to implement RDAP

AUGUST

ICANN Board accepts Privacy and Proxy Services Accreditation Issues PDP recommendations

The working group recommendations aimed to "provide a sound basis for the development and implementation of an accreditation framework" that would "substantially improve the current environment".

OCTOBER

Implementation Review Team convenes for privacy and proxy services accreditation issues policy recommendations

AUGUST

RySG and RrSG submits RDAP implementation pilot proposal to ICANN

2017

AUGUST

Registry Registration Data Directory Services Consistent Labeling and Display Policy goes into effect

SEPTEMBER

ICANN accepts RySG and RrSG proposal to implement RDAP

RDAP Development

Policy Development

2018

MAY

ICANN Board adopts the Temporary Specification for gTLD Registration Data

The European Union's General Data Protection Regulation (GDPR) goes into effect

According to the European Commission, the aim of the GDPR is to protect all EU residents from privacy and data breaches. It applies to the processing of personal data of individuals in the European Union, regardless of whether the processing occurs within or outside the European Union.

Thick WHOIS Transition Policy for .COM, .NET and .JOBS goes into effect

All new domain name registrations must be submitted as Thick starting on 1 May 2018 at the latest.

JULY

GNSO Council initiates EPDP on the Temporary Specification for gTLD Registration Data Phase 1

2019

FEBRUARY

ICANN notifies registries and registrars of the legal requirement to implement RDAP service by 26 August

FEBRUARY

Thick WHOIS Transition Policy for .COM, .NET and .JOBS goes into effect

All relevant registration data for existing domain names must have been migrated from Thin to Thick by 1 February 2019.

MAY

ICANN Board accepts EPDP-TempSpec Phase 1 recommendations

This includes Recommendation 27: The EPDP-TempSpec Team recommends that updates are made to existing policies and procedures and any others that may have been omitted to ensure consistency with these policy recommendations.

RDAP Development

Policy Development

2019

SEPTEMBER

Implementation of privacy and proxy services accreditation issues policy recommendations on hold due to EPDP-TempSpec Phase 1 Recommendation 27

NOVEMBER

Implementation of transliteration of contact information policy recommendations on hold due to EPDP-TempSpec Phase 1, Recommendation 27

ICANN Board defers contractual compliance enforcement of Thick WHOIS Transition Policy for .COM, .NET and .JOBS

This resulted in a situation where the practical implementation of transitioning the .COM, .NET. and .JOBS registries to Thick WHOIS has been indefinitely postponed.