EPDP

At-Large Capacity Building Webinar

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Expedited Policy Development Process (EPDP) on the Temporary Specification for gTLD RegistrationData Team

- Background and rationale for the EPDP;

- Privacy legislation and the outcomes of the EPDP's Phase 1;

- Concept of the Standardized System for Access and Disclosure (SSAD);

- Proposal for SSAD;

- Open issues.

Background and rationale for the EPDP

- WHOIS: Database of who gTLD registrants are
  - Provides identity, contact information
  - Can be "masked" by proxy services (typically at a fee)
  - Required by contract and by earlier agreements with the US Government.
- Public disclosure of such information of "natural persons" without their explicit approval may not be legal.

Note: WHOIS

= RDDS (Registration Data Directory Service)

= RDS (Registration Directory Service)

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These two cannot co-exist!

Privacy Legislation

- Aimed at protecting the information of Natural Persons

- In general, does not protect "Legal Persons"

- Has been around for years in some jurisdictions
  - ICANN largely ignored it in regard to WHOIS

- EU General Data Protection Regulations (GDPR)
  - Incorporated SIGNIFICANT penalties!

GDPR

- Complex and highly technical legislation

  http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016R0679

  - Concept of "controllers" and "processors"
  - "Purposes" for processing personal data
  - Balancing need for information vs need for privacy
  - Data minimization, accuracy (various interpretations)
  - Extraterritorial

- Due to significant penalties, those that are potentially liable tend to be VERY CONSERVATIVE – "Don't take chances"

- Penalties as of: 25 May 2018

ICANN

- May 2018 deadline
- Not ready!
- ICANN Policies normally set by Policy Development Processes (multistakeholder)
- ICANN Board allowed to set policy in urgent circumstances
- Board established 1 year "Temporary Specification"
  - (contracts addendums called Specifications)

Quiz

Why was the Temporary Specification established to replace WHOIS?

EPDP

- Expedited PDP established to replace the Temporary Specification with formal policy

- Members represent parts of the GNSO and other interested groups in ICANN (ALAC, GAC, SSAC).

- Limited size to facilitate management of the process.

EPDP Results

Phase 1

- Policy generally similar to Temp Spec.

- Roughly a year to implement

- Most personal data redacted

- Much Legal Person data redacted (WHOIS did not specify if registrant is a legal or natural person)

- No required geographic differentiation

- Disclosure for valid reasons highly decentralized
  (contact Registrar/Registry directly)

Access/Disclosure

- Legitimate 3rd party needs to access redacted data (personal AND non-personal data)

- Experience with distributed (i.e. by each Registrar/Registry) not satisfactory from requestors point of view

  - Rejections

  - Ignored requests

  - Long delays

- Debate over whether this is Access or Disclosure!

Quiz

Why was the EPDP team for the Temporary Specification for gTLD registration data established?

Concept of the Standardized System for Access and Disclosure (SSAD);

- Single location to submit request

- Standardized request forms

- Standardized review and response process

- Built in authentication process to the requestors

- Funding crucial
  - Partially user funded
  - Fees will vary

Standardized System for Access and Disclosure (SSAD)

- Centralized system run by ICANN
- SSAD will only accept requests from accredited requestors
- SSAD will authenticate and validate queries
- In the general case, SSAD will send the query to contracted party (CP - Registrar or Registry) for review, possible approval and reply
  - Balancing test
- SSAD will log everything (including how CP responded, but not the actual data)

Quiz

Who can submit requests to the SSAD?

SSAD - 2

- SSAD, in limited circumstances will respond to the query
  - Requests from Law Enforcement in local or otherwise applicable jurisdictions;
  - Responses to UDRP and URS Providers for registrant information verification.
    - Now not as certain!
- The experience gained over time with SSAD disclosure requests and responses is expected to inform further evolvement and improvement of the efficiency of the system
- Data available in relation to the expected number of requests, is expected to inform further evolvement and improvement of the efficiency of the system
- The Central Gateway may provide a recommendation to the CP whether to disclose or not, the CP may follow the recommendation, if it does not it must inform the Central Gateway of the reason to allow it to learn

SSAD - 3

- A mechanism that allows for the evolvement of the system without the need to conduct a PDP each time an improvement is added to the system is required
  - Mechanism on how is not agreed upon
- A contracted party may request the central gateway to automate all or certain types of disclosure requests

Quiz

Who is responsible for making the decision to disclose the data to the requestor within SSAD?

Accreditation

- An accreditation authority will accredit users of the SSAD, i.e. confirm and verify the identity of the user

- The accreditation authority will assign to the SSAD users identity credentials and signed assertions

- An identity provider will be responsible for verifying the identity of the requestor and managing the signed assertion associated with the identity credentials

Accreditation

- The identity provider can be the accreditation authority itself or the accreditation authority may rely on third parties

- There will be one single accreditation authority managed by ICANN org

- Accreditation does not ensure disclosure of the data, it only allows for the use of the SSAD

- For governmental entities accreditation by a country's government body would be available

- The decision to authorize the disclosure of the data will reside with either the relevant CP or the Central Gateway Manger

Accreditation

- An accreditation authority auditor will be responsible for carrying out the auditing requirements of the accreditation authority

- The accreditation authority can revoke the accreditation of the users

- The accreditation service will be a service that is financially sustainable

- The accreditation activity will be logged by the accreditation authority and identity provider

Quiz

What is the role of accreditation in SSAD?

Response time

- A priority code is assigned to requests – originally set by the requestor according to the criteria set by the Central Gateway and could be reassigned by the CP

- Urgent requests (circumstances that pose an imminent threat to life, serious bodily injury, critical infrastructure online and offline) – response is 1 business day

If a request is submitted on a Friday response could be received on Monday

Open Issues

- Mechanism to permit the hybrid model to improve
  Essential for a robust and efficient system to exist

- Natural vs Legal Persons
  - *CPs are permitted to differentiate between registrations of legal and natural persons, but are not obligated to do so*
  - *The EPDP Team will consult with the GNSO Council on if/how it is expected to consider the findings on this topic beyond its current timeline*

- Accuracy
  - *the GNSO Council is expected to form a scoping team to further explore the issues in relation to accuracy and ARS to help inform next steps*

Quiz

What does GDPR protect?

Discussion