

RDS PDP WG DT5 Deliverable 8 Nov 17

Purpose Name: **Regulatory**

Definition:

Information accessed by regulatory entities to enable contact with the registrant to ensure compliance with applicable laws.

Tasks:

- Regulatory authority to ensure that registrants, registries and/or registrars are compliant with applicable laws such as data protection, user privacy, tax law, etc.

Users:

- Tax collection agencies may request access registration data to identify identification of contacts for domain name used for on-line sales.
- Regulatory agencies may want to access registration information for many purposes: law enforcement investigations, legal compliance, , etc.

Data:

- Data tending to establish the identity and/or location of domain name registrant. For example, Registrant Name and Registrant Address (at least province/country address).
- Data that tend to categorize the type of users: individual, corporation, organization, academic, etc. The types of users may result in different tax systems or different compliance standards.

Specific data elements by use case:

1. Investigation into fraudulent and inaccurate information (by government and/or regulatory authority):
 - Registry Expiry Date
 - Registrant Name
 - Registrant Email
 - Name Server
 - Registrant Name
 - Registrant Phone

- Log files and, ... other records associated with the Registration containing dates, times, and time zones of communications and sessions, including initial registration
- Name server status
- 2. A tax authority may require the following data elements for billing and tax collection purpose
 - Domain Status
 - Domain Name
 - Registrant Name
 - Registrant Street
 - Registrant Email
- 3. A government agency
 - Domain name
 - Registrar Whois Server
 - Registrar URL
 - Update date
 - Registry Expiry Date
 - IP address
 - Registrar
 - Registrar abuse contact email
 - Reseller
 - Domain status
 - Registrant Name
 - Registrant E-mail
 - Admin name
 - Tech ID
 - Name server
 - Billing Contact name
 - DNSSEC
 - Registrar WHOIS server

RDS PDP WG DT5 Deliverable Redline Draft 8 November 2017

Purpose Name: **ICANN Contractual Enforcement**

Definition:

Information accessed to enable ICANN Compliance to monitor and enforce contracted parties' agreements with ICANN.

Tasks:

- Monitoring and investigation by ICANN Compliance of performance of contract terms.

Users:

- ICANN Compliance audit and respond to complaints about non-compliance by contracted parties (e.g., data inaccuracy or unavailability, UDRP decision implementation, transfer complaints, data escrow and retention).

Data:

ICANN organization may require the following data elements to check ICANN contractual compliance

- Registrant Name
- Registrant Street
- Registrant Email
- Registrant Email
- Name Server
- Domain Status
- Log files and, ... other records associated with the Registration containing dates, times, and time zones of communications and sessions, including initial registration
- Updated Date
- Registry Expiry Date

RDS Purpose: Regulatory

DT5 Answers to Questions – Final Draft for WG Review - 7 Mar 18

From: <https://community.icann.org/display/gTLDRDS/Phase+1+Documents> (See the 1st link for DT5)

Definition: Information accessed by regulatory entities to enable contact with the registrant to ensure compliance with applicable laws.

1. *Who associated with the domain name registration needs to be identified or contacted for the proposed Regulatory Purpose?*
 - Applicable regulatory authorities with potential jurisdiction over the registrant, registrar and registry may need to be able to identify and as necessary contact the following:
 - a. The domain name registrant or designated representative
 - b. The domain name registrar
 - c. The domain name registry.

2. *What is the objective achieved by identifying and/or contacting each of those entities?*
 - The objectives of identifying any of the entities listed for question 1 above are:
 - For a: to determine who is the authorized holder of the domain name registration and what is that entity's legal jurisdiction.
 - For b: to determine what registrar entered the domain name into the applicable top-level domain registry and what is the registrar's legal jurisdiction.
 - For c: to determine what registry entered the domain name into its top-level domain registry and what is the registry's legal jurisdiction.
 - The objectives for contacting any of the entities listed for question 1 above, if needed, are:
 - To provide notification of any possible regulatory issues
 - To ask clarifying questions about any possible regulatory issues
 - To communicate possible regulatory actions under consideration
 - To provide official notification of final actions taken.

3. *What might be expected of that entity with regard to the domain name?*
 - Domain name registrants or designated representatives could do any or all the following as applicable:
 - Confirm they are the authorized holder of the domain name registration
 - Identify their legal jurisdiction
 - Ask clarifying questions about issues identified by the regulatory agency
 - Respond to questions asked by the regulatory agency
 - Provide relevant information to assist the regulatory agency in their deliberation.
 - Appeal actions taken by the regulatory agency.
 - Domain name registrars could do any or all the following as applicable:
 - Confirm they are the registrar of the domain name registration
 - Identify their legal jurisdiction

- Ask clarifying questions about issues identified by the regulatory agency
- Respond to questions asked by the regulatory agency
- Provide relevant information to assist the regulatory agency or ICANN in their deliberation.
- Put the regulatory agency, as legal and appropriate, in touch with the registrant.
- Appeal actions taken by the regulatory agency.
- Domain name registries could do any or all the following as applicable:
 - Confirm they are the registry of the domain name registration
 - Identify their legal jurisdiction
 - Ask clarifying questions about issues identified by the regulatory agency
 - Respond to questions asked by the regulatory agency
 - Put the regulatory agency, as legal and appropriate, in touch with the registrant.
 - Provide relevant information to assist the regulatory agency in their deliberation
 - Appeal actions taken by the regulatory agency.

March 2018

RDS Purpose: ICANN Contractual Enforcement

Emails to maguy.serad@icann.org from Chuck Gomez on behalf of GNSO RDS-PDP-5

DT5 Answers to Questions – Final Version for WG Review 7 March 18

From: <https://community.icann.org/display/gTLDRDS/Phase+1+Documents>

(See the 2nd link for DT5)

Definition: Information accessed to enable ICANN Compliance to monitor and enforce contracted parties' agreements with ICANN.

1. Who associated with the domain name registration needs to be identified and/or contacted for the ICANN Contractual Enforcement Purpose?

- ICANN compliance needs to be able to identify and as necessary contact the representatives from the associated registrar and/or registry who is knowledgeable about the contracted party's fulfillment of RDS or other contractual requirements. ICANN compliance may also need to contact the registrant or its designated representative to confirm or verify facts or assertions made regarding the registrar's or registry's compliance.

Correct - ICANN Contractual Compliance, as part of its compliance process (<https://www.icann.org/resources/pages/approach-processes-2012-02-25-en>), identifies the registrar and/or registry operator of the domain name and undertakes various activities to ensure compliance with contractual obligations.

Compliance does not currently reach out to the domain name's registrant unless the registrant is also the person submitting the complaint ("reporter"). Compliance may check the WHOIS data to confirm whether the reporter of the complaint is the current registrant of the domain name. Compliance may also follow up with the reporter to validate the complaint before collaborating with the registrar or registry operator on the complaint. Compliance may also receive communications between the registrar or registry operator and the registrant during the course of processing the complaint. For example, a registrar may provide evidence of emails with the registrant during a WHOIS inaccuracy investigation or transfer complaint investigation.

2. What is the objective achieved by identifying and/or contacting each of those entities?

• The objectives for contacting any of the entities listed for question 1 above, if needed, are:

- To provide notification of any possible compliance issues
- To ask clarifying questions about any possible compliance issues
- To communicate possible compliance actions under consideration
- To provide official notification of final actions taken.
- Commented

Correct - The objective of ICANN Contractual Compliance in contacting registrars, registry operators and complaint reporters (who may also be registrants) is to fulfill the compliance function of enforcing ICANN agreements and policies.

3. What might be expected of that entity with regard to the domain name?

• Domain name registrars and registries would be expected (by ICANN compliance) to do any or all the following as applicable:

- Ask clarifying questions about issues identified by ICANN Compliance
- Respond to questions asked by ICANN Compliance
- Provide relevant information to assist ICANN Compliance in their deliberation.
- Appeal actions taken by the ICANN Compliance.

Correct -ICANN contracted parties and complaint reporters (who may also be registrants) are expected to demonstrate compliance (contracted parties) and/or facilitate ICANN's determination of whether the complaint is in scope of the relevant ICANN agreements and policies (reporters).

DT5 ICANN Contractual Enforcement – Slide 9

- DT5 answers introduced by Beth
- WG was joined by ICANN compliance staff Selim Manzak, Jennifer Scott, and Maguy Serad
- Compliance staff confirmed that:
 - ICANN does NOT use registrant data to initiate contact with registrants – as ICANN does not have contractual relationship with registrants, ICANN notifies the contracted party instead (e.g., Registrar)
 - ICANN DOES use registrant data to investigate complaints and enforce compliance with contractual obligations – for example, to investigate unauthorized use of another’s name or address in a registration
 - Compliance cannot at this point make any assumptions about how the GDPR compliance model will impact their procedures or use of registration data