

APAC Space web conference

Data Privacy & Protection



13 July 2017

Agenda

- ⦿ **Welcome Remarks** by Jia-Rong Low, Vice President & Managing Director, ICANN Asia Pacific (3 mins)
- ⦿ **Introduction to APAC Space Subgroups** by Joyce Chen, GSE Strategy & Development Senior Manager, ICANN (5 mins)
- ⦿ **Introduction to Data Privacy & Protection** by Holly Raiche, APAC Space Data Privacy & Protection sub-group co-chair (5 mins)
- ⦿ **Introduction to General Data Protection Regulation (GDPR) in relation to ICANN** by Sebastien Ducos, APAC Space Data Privacy & Protection sub-group member (15 mins)
 - Discussion on internal GDPR Task Force by Holly Raiche (10 mins)
- ⦿ **Questions & Community Discussion** led by Edmon Chung, APAC Space Community Facilitator (20 mins)
 - Participants to share any privacy regulations in their own country and related concerns
 - Topic for next APAC Space web conference and subgroups
- ⦿ **AOB**
 - Upcoming Events

Welcome Remarks



Jia-Rong Low

Vice President & Managing Director
ICANN Asia Pacific

What is APAC Space?



“Space” for APAC Community Members

- ⦿ “Practice Ground” to facilitate community discussion -> Participate in ICANN
- ⦿ Community-led
- ⦿ 2017 focus areas:
 - DNS industry topics
 - ICANN Policy Development Processes, and
 - ICANN Reviews

What is APAC Space?



How is it conducted?

- ⦿ Bi-monthly web conference or face-to-face at ICANN meetings
- ⦿ Presentation on topic, followed by community discussion
- ⦿ Community mailing list: discuss@apacspace.asia
 - Facilitates setting of agenda
 - Raise discussion issues
- ⦿ Community wiki page:
<https://community.icann.org/display/GSEAPAC/APAC+Space>

Introduction to APAC Space Subgroups



Joyce Chen

GSE Strategy & Development Senior Manager
ICANN

APAC Space Subgroups

- ⦿ Purpose of subgroups:
 - Facilitate deeper community discussions
 - Help inform community of policy issues related to ICANN
 - Allows community to raise issues quickly

- ⦿ Responsibilities
 - In-depth discussion on selected topic
 - Present on topic during APAC Space to share discussion with wider APAC community
 - Recommend subject matter experts if required

APAC Space Subgroups

- ⦿ Pilot APAC Space subgroup: **Data Privacy & Protection**
 - Co-Chairs to scope discussion issues
 - Holly Raiche & Kuo-Wei Wu
 - Discussion over mailing list and conference call via Adobe Connect
- ⦿ Resources:
 - Subscribe to dataprivacy@apacspace.asia
 - Dedicated community wiki:
<https://community.icann.org/pages/viewpage.action?pageId=66072907>

Data Privacy & Protection Subgroup

Current members (alphabetical order):

1. Satish Babu
2. Amrita Choudhury
3. Harish Chowdhary
4. Saurabh Dubey
5. Sebastien Ducos
6. Michael Flemming
7. Tomohiro Fujisaki
8. Shahul Hameed
9. Jang Chang-Ki
10. Shiva Kanwar
11. Rajiv Kumar
12. Meijuan Li
13. Raymond Li
14. Holly Raiche (co-chair)
15. Isha Suri
16. Yaling Tan
17. Kuo-wei Wu (co-chair)
18. Rohit Yadav
19. Said Zazai

Introduction to Data Privacy & Protection



Holly Raiche

APAC Space

Data Privacy & Protection subgroup co-chair

Data Privacy and Protection

Privacy Issues (apart from data protection)

- The right to be let alone
- Physical Privacy (intrusions into one's space)
- Personal Privacy/intimacy
- Control over information about us
- Anonymity

Data Protection – about the collection, use, storage, of information about a person

Data Privacy and Protection

OECD Guidelines 2013: *New Threats*

*...the abundance and persistence of personal data have elevated the risks to individuals' privacy. Personal data is increasingly **used in ways not anticipated at the time of collection**. Almost every human activity leaves behind some form of **digital data trail**, rendering it increasingly easy to monitor individuals' behaviour. Personal data **security breaches are common**. These increased risks signal the need for more effective safeguards in order to protect privacy.*

Data Protection: OECD Principles 2013

Collection Limitation Principle

There should be limits to the collection of personal data and any such data should be obtained by lawful and fair means and, where appropriate, with the knowledge or consent of the data subject.

Data Quality Principle

Personal data should be relevant to the purposes for which they are to be used, and, to the extent necessary for those purposes, should be accurate, complete and kept up-to-date.

Purpose Specification Principle

The purposes for which personal data are collected should be specified not later than at the time of data collection and the subsequent use limited to the fulfillment of those purposes or such others as are not incompatible with those purposes and as are specified on each occasion of change of purpose.

Privacy Regulation- OECD Principles

Use Limitation Principle

Personal data should not be disclosed, made available or otherwise used for purposes other than those specified in accordance with Paragraph 9 (purpose) except:

- with the consent of the data subject; or
- by the authority of law.

Security Safeguards Principle

Personal data should be protected by reasonable security safeguards against such risks as loss or unauthorised access, destruction, use, modification or disclosure of data.

Data Privacy and Protection

What is Personal Information:OECD Guidelines

2013 *Distinguishing between what is “personal data” and what is not is becoming gradually more difficult. Technological progress increasingly **permits data to be linked back to identifiable individuals in ways not anticipated when the data was collected.** And technological progress is also making **it easier, faster, and more affordable to do so.** Data can be combined with other data and in the process may make individuals identifiable – sometimes to a high degree of statistical probability.*

Data Privacy and Protection

- What is Personal Information: European Court of Justice 2016: Background:

*Mr Breyer brought an action before the German administrative courts seeking an order **restraining the Federal Republic of Germany from storing, or arranging for third parties to store, after consultation of the websites accessible to the public run by the German Federal institutions' online media services, the IP address of the applicant's host system except in so far as its storage is unnecessary in order to restore the availability of those media in the event of a fault occurring.***

Data Privacy and Protection

European Court of Justice (cont'd)

Article 2(a) of the EU Directive:

“Personal data” shall mean any information relating to an identified or identifiable natural person (“data subject”); an identifiable person is one who can be identified, directly or indirectly, in particular by reference to an identification number or to one or more factors specific to his physical, physiological, mental, economic, cultural or social identity;

Data Privacy and Protection

European Court of Justice (cont'd)

- 48 *Thus, it appears that the online media services provider has the means which **may likely reasonably be used in order to identify** the data subject, with the assistance of other persons, namely the competent authority and the internet service provider, on the basis of the IP addresses stored.*
- 49 *Having regard to all the foregoing considerations, the answer to the first question is that Article 2(a) of Directive 95/46 must be interpreted as meaning that **a dynamic IP address registered by an online media services provider when a person accesses a website that the provider makes accessible to the public constitutes personal data within the meaning of that provision**, in relation to that provider, where the latter has the legal means which enable it to identify the data subject with additional data which the internet service provider has about that person.*

Data Privacy and Protection

OECD Guidelines: Extra-territorial Rules

- A data controller remains accountable for personal data under its control without regard to the location of the data
- Transborder flow okay if other country(ies) 'substantially' observe Guidelines or are sufficient safeguards
- Any restrictions on transborder flow proportionate to the risks presented

Data Privacy and Protection

Questions?

Thank you

Introduction to General Data Protection Regulation (GDPR) in relation to ICANN



Sebastien Ducos

APAC Space

Data Privacy & Protection subgroup member



geoTLD.group

GDPR

APAC Hub 13 July 2017



Agenda

GDPR

- What is it?
- What does it mean for us?
- What is ICANN doing about it?



GDPR – What is it?

- General Data Protection Regulation
- Aims:
 - Harmonise and simplify existing national regulation
 - Protect individuals by regulating personal data processing and retention
- Timeline:
 - Adoption : 27 April 2016
 - Application : 25 May 2018



GDPR – What is it?

- 7 fundamental rights:
 - be informed, access, rectification, erasure, restrict processing, data portability and objection
- Definitions:
 - Personal Data / Processing / Geo Scope
 - Controller / Processor / Data Subject



GDPR – What does it mean?

- ... for us?
 - Do we operate in the European Union?
 - Do we sell into the European Union?
 - Do we **Control or Process Data for European Union Data Subjects**?



GDPR – What does it mean?

- ICANN contracts and by-laws
 - RRA & RA: gather, share, publish, retain data
 - Registration data, Whois, Escrow, EBERO
- Internal business commitments
 - Operational/technical requirements, Data-driven marketing, Interactions with partners and resellers

Acronyms: Registry-Registrar Agreement, Registry Agreement, Emergency BackEnd Registry Operator



GDPR – What does it mean?

- Key Concepts:
 - Less is better: only collect what is required, only retain it while it's required
 - Transparency: document all your data related processes, make it public... securely.
 - Accountability: most of what you do could be ok, as long as you know and keep track of what goes to whom, when and why.



GDPR – What is ICANN doing?

- ICANN is the overarching Controller
Contracts and by-laws may need adapting
 - **Registration Data Service PDP**
 - Board resolution: Nov'12 / Launched: May'15
 - Up until now, no evaluation of personal data
 - **“The Small Group”**
 - An ad hoc group of contracted parties self-tasked with reviewing 60+ data points currently in contracts
 - Expended to invite reps from all SO&AC of the community in a transparent manner
 - **Internal Review**
 - Lead by Theresa Swinehart (ICANN Staff)

Acronyms: Support Organisation(s),
Advisory Committee(s)



GDPR – What is ICANN doing?

- **ICANN will:**
 - Assess its own implication an risk and
Provide new requirements in accordance
- **ICANN may:**
 - Offer individual ad-hoc waivers to its contracts
- **ICANN will not:**
 - Offer advice on your exposure
 - Guide you through to GDPR compliance



GDPR – geoTLD.group Survey

- Survey ran between April and May 2017
- 56 respondents, including 24 Non-EU
- Registrars, cc&gTLD Operators, Escrow Providers, technical backends
- **<http://geoTLD.group/GDPR/>**



geoTLD.group

Questions

sebastien.ducos@team.neustar

Community Discussion



Edmon Chung
APAC Space
Community Facilitator

Community Discussion

- ⦿ Questions for the speakers
- ⦿ Tell us about your local privacy regulations
- ⦿ Topic for next APAC Space session (September 2017)
 - Options to consider:
 - Continue discussing Data Privacy & Protection?
 - Another DNS industry topic?
 - Rotate to PDP or Review:
 - ICANN Policy Development Process (PDP) on Next-Generation gTLD Registration Directory Services (RDS)
 - Competition, Consumer Trust and Consumer Choice (CCT) Review
 - Write to discuss@apacspace.asia to suggest new topics

AOB

Upcoming events:

Community Webinar

By Krista Papac, ICANN Complaints Officer
August 2017

Next APAC Space web conference

September 2017

Engage with ICANN



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