

Possible Criterion	Summary of Comments for Q2 – Criteria Focus on Highlighted Points	Related Comments
All / General Comments <ul style="list-style-type: none"> 54% supported ALL listed criteria 	<ul style="list-style-type: none"> ❖ List must be non-exhaustive since it is incomplete ❖ Purpose is legitimate only if it is in compliance with GDPR Art 6 ❖ Footnote that criteria could be interpreted differently [in] GDPR — Data subject’s consent should temper which are legitimate — Not all combinations of criteria would work — The poll mixes up the purpose of data processing and legal basis -- b) c) e) f) are legal basis and not concrete purpose statements 	<p>4, 5, 7, 10 21 19 6, 18 9 17</p>
a) In support of ICANN’s mission <ul style="list-style-type: none"> 74% supported a) 3% (1) opposed 	<ul style="list-style-type: none"> ❖ Only a) AND d) are valid – should be AND not OR ❖ Only a) is valid and defined in bylaws ❖ a) is far too vague 	<p>3=8=11=13 15 20</p>
b) A legitimate interest pursued by the data controller(s) <ul style="list-style-type: none"> 60% supported b) 20% (7) opposed 	<ul style="list-style-type: none"> ❖ Difficult as data controller can pursue many legitimate activities ❖ b) would have to fit a) and be done by controller — Is a legal basis, not a purpose or criteria for it — Circular/self-referential 	<p>2 1 3=8=11=13, 17 20, 22</p>
c) Necessary for the fulfillment of a contract <ul style="list-style-type: none"> 63% supported c) 17% (6) opposed 	<ul style="list-style-type: none"> ❖ Too imprecise – contract between what parties? ❖ Applies where the data subject is a party to the contract ❖ Only c) and f) are valid — Contractual provisions cannot trump law — Is a legal basis, not a purpose or criteria for it 	<p>20 1 14 3=8=11=13 17</p>
d) Inherent to functionality of the DNS <ul style="list-style-type: none"> 74% supported d) 3% (1) opposed 	<ul style="list-style-type: none"> ❖ d) is a subset of a), since ensuring functionality is core to ICANN’s mission ❖ Only a) AND d) are valid – should be AND not OR — “Necessary” better than “Inherent” 	<p>1 3=8=11=13 3=8=11=13</p>
e) In the public interest <ul style="list-style-type: none"> 57% supported e) 23% (8) opposed 	<ul style="list-style-type: none"> ❖ Much too vague, would require significant definition, see Hamilton memo — Is a legal basis, not a purpose or criteria for it 	<p>1, 2, 3, 16, 20 17</p>
f) Necessary for compliance with a legal obligation <ul style="list-style-type: none"> 66% supported f) 20% (7) opposed 	<ul style="list-style-type: none"> ❖ Applies to government obligations, not voluntary legal obligations ❖ Only c) and f) are valid — Fine assuming appropriate processes are followed — Is a legal basis, not a purpose or criteria for it 	<p>3=8=11=13 14 1 17</p>
Suggested Additions	<ul style="list-style-type: none"> ❖ Add legitimate interest of third parties ❖ Add legitimate interest of data processors 	<p>4, 5, 7, 10 22</p>

Assumptions used when calculating level of support/opposition for Q2

1. Level of Support includes all those who chose poll options a) or b), plus...
2. Stephanie [1] indicates support for a, b, c, d, & f and opposes e.
3. Holly [2] supports a, c, d & f and opposes b & e.
4. Kathy [3] supports a & d and opposes the rest.
5. Tatiana [8] supports a & d and opposes the rest. Note that Tatiana's comments are identical to Kathy's.
6. Juan [11] supports a & d and opposes the rest. Note that Juan's comments are identical to Kathy's.
7. Farrel [13] supports a & d and opposes the rest. Note that Farrel's comments are identical to Kathy's.
8. Rob [14] supports c & f and opposes the rest.
9. Farzaneh [15] supports a and opposes the rest.
10. Unsure how to translate Peter's comment [17] into support or opposition for any of the criteria; possibly he supports b, c, e and f.
11. Kris [19] seems to support all of the listed criteria.
12. Jeremy [20] supports d & f and opposes the rest.

Possible Purpose	Summary of Comments for Q3 – Purposes Focus on Highlighted Points	Related Comments
All / General Comments <ul style="list-style-type: none"> 59% supported ALL listed purposes 	<ul style="list-style-type: none"> List is not exhaustive; should allow future purposes that comply with GDPR Very few satisfy legitimate purposes for processing data under GDPR For ICANN's purpose to support ICANN's mission, legitimate purposes would be directly related to the maintenance and functioning of a domain name Data processing has to be in direct relation with ICANN's mission, mandate, and legal status (ensuring the stable and secure operation of ID systems). Including [other] purposes would mean that ICANN has a role in those areas; this would not exclude third-party access if all requirements are met Approach makes it difficult to narrow data collection to ICANN core purpose Footnote clear admission that GDPR laws and rules will be applied Legitimate purpose must be approved by registrant Not all purposes combine with all criteria – need matrix 	<p>4, 5, 7, 10 3=8=11=12 3=8=11=12, 14 16 16 1 17 6 9</p>
Technical Issue Resolution <ul style="list-style-type: none"> 83% supported 9% (3) opposed 	<ul style="list-style-type: none"> Purposes for processing registration data are limited to Tech Issue Resolution, DN Management, DN Certification, and DN Purchase/Sale Purposes are limited to above list plus ICANN Contractual Enforcement 	<p>3=8=11=12 16</p>
Academic/Public Interest Research <ul style="list-style-type: none"> 57% supported 26% (9) opposed 	<ul style="list-style-type: none"> Academic research is not ICANN's core purposes ICANN is not a university – must be deleted from list Do not agree that criteria is necessary for processing of registration data 	<p>1 3=8=11=12, 18 2</p>
Domain Name Management <ul style="list-style-type: none"> 80% supported 3% (1) opposed 	<ul style="list-style-type: none"> Purposes for processing registration data are limited to Tech Issue Resolution, DN Management, DN Certification, and DN Purchase/Sale Purposes are limited to above list plus ICANN Contractual Enforcement 	<p>3=8=11=12 16</p>
Individual Internet Use <ul style="list-style-type: none"> 60% supported 23% (8) opposed 	<ul style="list-style-type: none"> Must be deleted from list Open-ended purpose, made complicated by gated/non-gated access Do not agree that criteria is necessary for processing of registration data 	<p>3=8=11=12, 18 15 2</p>
Domain Name Certification <ul style="list-style-type: none"> 74% supported 17% (6) opposed 	<ul style="list-style-type: none"> Must be deleted from list Purposes for processing registration data are limited to Tech Issue Resolution, DN Management, DN Certification, and DN Purchase/Sale Purposes are limited to above list plus ICANN Contractual Enforcement 	<p>18 3=8=11=12 16</p>
Domain Name Purchase/Sale <ul style="list-style-type: none"> 74% supported 17% (6) opposed 	<ul style="list-style-type: none"> Purposes for processing registration data are limited to Tech Issue Resolution, DN Management, DN Certification, and DN Purchase/Sale Purposes are limited to above list plus ICANN Contractual Enforcement 	<p>3=8=11=12, 18 16</p>

Possible Purpose	Summary of Comments for Q3 – Purposes	Focus on Highlighted Points	Related Comments
ICANN Contractual Enforcement <ul style="list-style-type: none"> 69% supported 14% (5) opposed 	❖ Must be deleted from list		3=8=11=12
Regulatory Enforcement <ul style="list-style-type: none"> 63% supported 20% (7) opposed 	❖ ICANN is not a regulator – must be deleted from list		3=8=11=12
Legal Actions <ul style="list-style-type: none"> 63% supported 20% (7) opposed 	❖ ICANN is not an org of lawyers – must be deleted from list		3=8=11=12
Criminal Activity/DNS Abuse - Investigation , Notification, and Reputation <ul style="list-style-type: none"> 63% supported 20% (7) opposed 	❖ Law enforcement is not ICANN’s core purposes; delete from list		1, 3=8=11=12, 18
Suggested Additions	❖ “Aggregation of Registration Data, under appropriate conditions, for use in achieving another legitimate purpose”		10

Assumptions used when calculating level of support/opposition for Q3

- Holly [2] opposes 2 & 4 and supports the rest.
- Kathy [3] supports 1, 3, 5 & 6 and opposes the rest.
- Tatiana [8] supports 1, 3, 5 & 6 and opposes the rest. His comments are essentially the same as Kathy’s.
- Juan [11] supports 1, 3, 5 & 6 and opposes the rest. His comments are essentially the same as Kathy’s.
- Farell [12] supports 1, 3, 5 & 6 and opposes the rest. His comments are essentially the same as Kathy’s.
- Rob [13] supports 1, 4, 7, 10, 11, & 12 and opposes the rest.
- Farzaneh [14] supports 1 & 3 and opposes the rest.
- Peter [16] supports 1, 3, 5, 6, & 7 and opposes the rest, although I am not sure he fully understands the poll question.
- Because Kris [17] selected option c instead of option a, didn’t include him as supporting or opposing any of the purposes.
- Jeremy [18] appears to oppose 2, 4, 5, 6, 10, 11, & 12 and support the rest.