

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.

Comment [O1]: Note that one DT member objected to asking this question because that member believes ICANN is not a regulator.

Comment [O2]: Note that the drafting team did not assume that public identification of any of the three entities is required.

Comment [O3]: One DT member said that this should be deleted because ICANN is not a law enforcement agency nor is it a customer protection agency.

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.

Comment [O4]: If a is deleted in Q1 above, it should be deleted here.

Comment [O5]: One DT member said that all of these should be deleted because they are outside the clarity, scope, definition and strict boundaries of a "purpose" statement. (It should be noted that this is not a purpose statement.)

Comment [O6]: Note that a registrant, while subject to the terms and conditions of its contract with a registrar, may take any action it likes. Once the requesting entity has the contact info for a registrant, the registrant's behavior or action is not the concern of the registrar or registry unless the regulatory authority makes a legal request for action from the registrar or registry (e.g., server hold).

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

Comment [O7]: One DT member suggested inserting the following before 'could . . .': "if contacted by or through the registry or registrar from whom they receive the domain name".

- 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.

Comment [O8]: Note that registries can set their own internal policies with regard to how they respond to LEAs, or other regulatory requests, as appropriate to how the request is made and jurisdictional requirement.