

Action Item Response - Draft OECD Objective text for RDS-WHOIS2-RT Leadership Consideration

During the plenary call #5 on 17 August, review team members discussed the following bylaws clause:

*[Bylaws](#), Section 4.6(e)(iii): The review team for the Directory Service Review ("Directory Service Review Team") will consider the Organisation for Economic Co-operation and Development ("OECD") Guidelines on the Protection of Privacy and Transborder Flows of Personal Data as defined by the OECD in 1980 and [amended in 2013](#) and as may be amended from time to time.*

In summary, the team agreed this topic was in-scope for this review and could probably be addressed relatively simply, as had been outlined in review team list email on "privacy."

As noted [in an email to the RT](#) from Alan Greenberg, "Our recommendations need to be high level and not attempt to provide detailed policy or implementation which is the domain of the GNSO PDP and its follow-on activities." [In her reply](#), Erika Mann agreed with Alan's suggestion, further noting "I wouldn't rule out to touch, when appropriate, on the way the GDPR was handled to allow future processes to evolve. There will always be a new GDPR-alike legislation showing up on the horizon. And, a proper response to such a future challenge should become ingrained in ICANN's DNR." In a follow-up, Alan said, "By the time we issue our report, the GDPR deadline will likely have passed. But that means we will know to a large extent if ICANN has been successful in addressing the issue or not, and out of that there may well come some recommendations."

During the 24 August leadership call, ICANN Org was given the action to draft text for a possible review objective reflecting this OECD component of the bylaws. As such, the following text is offered for leadership consideration:

*Consistent with ICANN's mission and Bylaws, Section 4.6(e)(iii), the review team will consider the Organisation for Economic Co-operation and Development ("OECD") Guidelines on the Protection of Privacy and Transborder Flows of Personal Data as [amended in 2013](#) by (a) identifying examples of where today's RDS (WHOIS) appears to be in conflict with OECD guidelines, (b) examining steps currently being taken by ICANN to address WHOIS compliance with related data protection laws (e.g., GDPR), and (c) producing high-level recommendations focused on promoting RDS compliance with existing and future data protection laws.*