

# **RDS-WHOIS2-RT Face-to-Face Meeting #4**

**DAY 3 – 12 December 2018  
Brussels**



# Welcome

## Agenda Item #1

**Presenters:** Review Team Leadership & ICANN org

**Time:** 09:00 – 09:15

# Welcome

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- **Day 2 Takeaways**
- **Day 3 Objectives**
  - Complete review of public comments received
  - Reach consensus on recommendations and sections updates
  - Critical assessment of current status, the report structure and the need for any changes
  - Determine adjustments needed to work plan

# Day 3 Agenda

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## **08:30 - 09:00 - Breakfast**

*09:00 - 09:15 – Welcome*

*09:15 - 10:15 – Objective 5 – Safeguarding Registrant Data*

## **10:15 - 10:30 – Break**

*10:30 - 11:15 – ICANN Bylaws*

*11:15 - 12:30 – Parking lot for any item that requires further discussion*

## **12:30 - 13:30 – Lunch Break**

*13:30 - 14:30 – Executive Summary*

*14:30 – 15:30 - Adjust (as needed) structure of report (e.g. merge sections etc)*

## **15:30 - 15:45 – Break**

*15:45 - 16:30 – Call for consensus on recommendations*

*16:30 – 17:30 – Face-to-Face Meeting #4 wrap-up*

# Objective 5: Safeguarding Registrant Data

**Agenda Item #2**

**Presenters: Alan Greenberg**

**Time: 09:15 – 10:15**

# Public Comments On Section

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## Objective 5: Safeguarding Registrant Data

**(RrSG)**

RrSG has no issue with these requirements, with the assumption that any update of the contracts will not be extended to anything outside of them. Such requirements should be general, not specific and merely reference best practice legal regulations such as the GDPR.

# Public Comments On Recommendation SG.1

**SG.1**

The ICANN Board should require that the ICANN Organization, in consultation with data security and privacy expert(s), ensure that all contracts with contracted parties (to include Privacy/Proxy services when such contracts exist) include uniform and strong requirements for the protection of registrant data and for ICANN to be notified in the event of any data breach. The data security expert(s) should also consider and advise on what level or magnitude of breach warrants such notification.

In carrying out this review, the data security and privacy expert(s) should consider to what extent GDPR regulations, which many but not all ICANN contracted parties are subject to, could or should be used as a basis for ICANN requirements. The ICANN Board must either negotiate appropriate contractual changes or initiate a GNSO PDP to consider effecting such changes.

**(RrSG)**

Supports.

**(RySG)**

Supports.

**(ALAC)**

Supports.

# Public Comments On Recommendation SG.1

## SG.1

### (I2C)

Internet Infrastructure Coalition has concerns about making sure contracts of Contracted Parties should be aligned with each other when it comes to requirements of user data security, noting these requirements should be strengthened and ICANN should have a right to be notified of breaches. They would like to see this move towards having both ICANN and GDPR compliant contracts.

### (BC)

While there has been a significant and useful focus at ICANN on registrant data privacy over the last several months, it remains unclear whether registrars and registries are adequately protecting registrant data (e.g. from data breaches). ICANN's contracts with registries, registrars and escrow agents include varying requirements for how data is to be protected from inappropriate access or change. We have limited transparency, however, on whether, and how well, these contracts are being enforced. For example, there's a contractual requirement that ICANN be notified in case of a data breach, but it's unclear whether and to what effect this has been enforced. We suggest this is an area for the Team's further consideration.



# Break

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**Time: 10:15-10:30**

## **What's Next?**

*10:30-11:15 – ICANN Bylaws*

*11:15-12:30 – Parking lot for any item that requires further discussion*

# ICANN Bylaws

**Agenda Item #3**

**Presenters: Alan Greenberg**

**Time: 10:30 – 11:15**

# Public Comments On Recommendation BY.1

<b>BY.1</b>	The ICANN Board should take action to eliminate the reference to “safeguarding registrant data” in ICANN Bylaws section 4.6(e)(ii) and replace section 4.6(e)(iii) of the ICANN Bylaws with a more generic requirement for RDS (WHOIS) review teams to assess how well RDS (WHOIS) policy and practice addresses applicable data protection and cross border data transfer regulations, laws and best practices.
<b>(I2C)</b>	Supports the idea of updating the bylaws, but wants to ensure up to date and effective data safeguards are part of that discussion.
<b>(RrSG)</b>	RrSG takes no issue with the bylaws being updated, however, it should be ensured that the data safeguards remain part of the revised language.
<b>(RySG)</b>	RySG supports the second part of Recommendation BY.1 to replace section 4.6(e)(iii) of the ICANN Bylaws, but does not support the first part of this recommendation to eliminate the reference to “safeguarding registrant data” in ICANN Bylaws section 4.6(e)(ii).
<b>(ALAC)</b>	Support recommendation.

# Public Comments on Recommendation BY.1

BY.1

**(DNRC)**

Concerned about the deletion of protections for Registrants from New ICANN Bylaw Section 4.6(e)(ii) and ask that this recommendation be removed, as they consider it dangerous and short-sighted, as removing or changing this Bylaw protection would violate key promises made in the ICANN Transition, and fundamental commitments of the ICANN Community to its foundation of domain name registrants. The publicity of such a change, alone, would undermine confidence in the DNS.

**(NCSG)**

We understand from examining the discussion on page 129 that the goal behind this recommendation was to eliminate reference to the OECD Guidelines, and to replace it with reference to data protection law and best practice (with a view to compliance), but as currently worded the recommendation does not do this. It sounds like the team is recommending the elimination of the reference to “safeguarding registrant data” in ICANN Bylaws section 4.6(e)(ii). If this is not indeed the intention, the recommendation must be reworded to precisely state its intention.

# General Comment on Draft Report

## (DNRC)

Asks that the RDS/WHO2, in fairness, acknowledge the many deep and lengthy concerns raised by members of the ICANN Community on the EWG Reports, where new sections were first introduced in the final report (without public input), and without factoring into compliance with the GDPR.

Ask that the Final Report highlight more strongly the important role of domain name Registrants, and highlight their rights as protected data subjects in the DNS. Coalition strongly opposes with recommendations potentially calling for mass takedowns of domain names. DNRC also asks that the Final Report reflects more of the history of the WHOIS databases and the robustness of the debate that has taken place throughout the history of ICANN.

# Parking Lot For Any Item That Requires Further Discussion

**Agenda Item #4**

**Presenters:** Review Team

**Time:** 11:15 – 12:30

# Lunch

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**Time: 12:30-13:30**

## **What's Next?**

*13:30-14:30 – Executive Summary*

*14:30-15:30 – Adjust (as needed) structure of report (e.g. merge sections etc.)*

# Executive Summary

**Agenda Item #5**

**Presenters:** Review Team Leadership

**Time:** 13:30 – 14:30



# Adjust (As Needed) Structure Of Report

**Agenda Item #6**

**Presenters:** Review Team Leadership

**Time:** 14:30 – 15:30

# Adjust (as Needed) Structure of Report

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# Break

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**Time: 15:30-15:45**

## **What's Next?**

*15:45 - 16:30 – Call for consensus on recommendations*

*16:30 - 17:30 – Face-to-Face Meeting #4 wrap-up*

# Call for Consensus On Recommendations

**Agenda Item #5**

**Presenters:** Review Team Leadership

**Time:** 15:45 – 16:30

# Call for Consensus On Recommendations

Confirm for each Recommendation	R1 Strategic Priority			R3 Outreach		R4 Compliance		R5 Data Accuracy	R10 Privacy/Proxy Services		R11 Common Interface		R12 IDNs	R15 Plan Annual Reports
	1.1	1.2	1.3	3.1	3.2	4.1	4.2	5.1	10.1	10.2	11.1	11.2	12.1	15.1
Recommendation #														
Updated? (Y/N) Removed? (R)														
Priority	H	H	M	M	H	H	H	TBD	L	L	L	H	L	M
Consensus (#agree:#disagree)														
Specific?														
Measureable?														
Relevant?														
Achievable?														
Time bound?														

# Call for Consensus On Recommendations

Confirm for each Recommendation	Law Enforcement Needs		Safeguarding Registrant Data	Contractual Compliance: Actions, Structure, and Processes					Bylaws
	LE.1	LE.2	SG.1	CM.1	CM.2	CM.3	CM.4	CM.5	BY.1
Recommendation #									
Updated? (Y/N) Removed? (R)									
Priority	H	H	M	H	M	L	L	L	M
Consensus (#agree:#disagree)									
Specific?									
Measureable?									
Relevant?									
Achievable?									
Time bound?									

# Face-to-Face Meeting #4 Wrap-Up

## Agenda Item #8

**Presenters:** Review Team Leadership & ICANN org

**Time:** 16:30 – 17:30

# Face-to-Face Meeting #4 Wrap-Up

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- **Roadmap to sending Final Report to the ICANN Board**
  - Set deadlines for completing outstanding actions
  - Identify penholders, etc.
- **Confirm decisions reached/action items**
- **Any other Business**
- **Closing remarks**



# Current Work Plan & Deliverables

DATE *	DELIVERABLE*
By 21 December 2018	Update recommendations and report based on public comment
By 11 January 2019	Approve final findings and recommendations for submission to ICANN Board
By 25 January 2019	Send Final Report to ICANN Board (and Language Services)
By 25 January 2019	Identify one or two review team members to remain available for clarification as may be needed during the Implementation Planning Phase

*\*Per latest work plan approved by leadership*

**Any adjustments needed?**