

EPDP Team Meeting

28 August 2018

Meeting #8

Agenda

1. Roll Call & SOI Updates (2 min)
2. Welcome and Updates from EPDP Team Chair (3 min)
3. Reconcile input received on Triage Report, if needed, and confirm report for submission to the GNSO Council (5-10 min)
4. Review of project plan (10 min) (see also section category allocation attached)
5. Touch base on comments received on & review status of: (10-20 min)
 - A. Appendix D – Uniform Rapid Suspension (see discussion summary index (DSI) at <https://community.icann.org/x/ExxpBQ>)
 - B. Appendix E – Uniform Domain Name Resolution Dispute Policy (see DSI at <https://community.icann.org/x/ExxpBQ>)
 - C. Appendix G: Supplemental Procedures to the Transfer Policy (see DSI at <https://community.icann.org/x/ExxpBQ>)
6. Commence deliberations for section 4.4 – Lawfulness and Purpose of Processing gTLD Registration Data (see DSI at <https://community.icann.org/x/ExxpBQ>) (50 min)
7. Confirm action items and questions for ICANN Org, if any (5 min)
8. Wrap and confirm next meeting to be scheduled for Thursday 30 August at 13.00 UTC.)

Reconcile input received on Triage Report, if needed, and confirm report for submission to the GNSO Council

Agenda item #3

Triage Report Comments

- ⊙ Reinforcement that comments made and recorded in this report are not binding, limiting or prejudicial on any party
- ⊙ Some important points were missed and should have been included
- ⊙ Correction of legal or other terminology
- ⊙ Form of the issue
 - Question
 - Some say “A” and others say “not A”
- ⊙ Some advocacy
- ⊙ Policy vs specification

Options going forward

- ⊙ One more draft accepting substantive points from above, or
- ⊙ Submit color-coded matrix (and comments) only, use comment summaries to guide substantive discussion

Review of project plan (10 min)

Agenda item #4

Issue Categorization



1) Sections Affected by EDPB	2) Sections where the Team Indicated Amendment to the Temporary Specification is desirable		3) Sections related to existing policies / procedures: e.g., transfers, DRPs, (little / no change)	4) Background, rationale, justification, admin
[] denotes dependency / linkage	2a) Sections where change is required to bring the section into compliance with GDPR	2b) Sections requiring less attention as issues are not expected to impact the Temporary Specification's compliance with the GDPR		
Section 4.4	Section 4.5	Section 5.2	Appendix B – Section 1	Section 1
Appendix A – Section 2	Section 5.3 [Appendix B]	Section 5.6 [Appendix D]	Appendix D	Section 2
Appendix A – Section 4	Section 5.4 [Appendix C]	Section 6 [Appendix F]		
›	Section 5.5	Section 7.1	Appendix E	Section 3
	Section 5.7	Section 7.3 [Appendix E]	Appendix G	Section 4.1-3
	Section 6 [Appendix F]	Section 7.4 [Appendix G]		Section 5.1 [Appendix A]
	Section 7.1	Section 8		
	Section 7.2 [Appendix A –Section 2]	Appendix – Section 1		
	Appendix A – Section 3	Appendix A – Section 4		
	Appendix B – Section 2-4	Appendix A – Section 5		
	Appendix C - Preamble	Appendix B – Section 2-4		
	Appendix C – Section 1	Appendix C – Section 3		
	Appendix C – Section 2			
	Appendix C – Section 3			
	Appendix F			

Project Plan

Meeting #	Date	Topic 1	Topic 2
1	1-Aug	Orientation, Background, Operating Mode	
2	7-Aug	Temp Spec Triage - Part 1	
3	9-Aug	Temp Spec Triage - Part 1	
4	14-Aug	Temp Spec Triage - Part 2	
5	16-Aug	Temp Spec Triage - Part 3	
6	21-Aug	Temp Spec Triage - Part 4	
7	28-Aug	Proposed Approach to Deliberations	
8	28-Aug	Section 4.4 - Purposes for access	Triage report*; Appendix D, E, G - URS, UDRP, Transfers*
9	30-Aug	Section 4.4 - Purposes for access	Appendix C - Data Processing Requirments - Activity & Role Chart
10	4-Sep	Section 4.4 - Purposes for access	Appendix C - Data Processing Requirments - Activity & Role Chart
11	6-Sep	Appendix C.3 - Processor Requirements	Appendix C - Data Processing Requirments - Activity & Role Chart
12	11-Sep	Appendix C.3 - Processor Requirements	Appendix A 2.1 & 3.0 - European Economic Area
13	13-Sep	Appendix A 2.2 - 2.4 - Redacted data set*	Appendix A 2.1 & 3.0 - European Economic Area
14	18-Sep	Appendix A 2.2 - 2.4 - Redacted data set*	Sections 5,6,7 Registry / Registrar Requirements
15	20-Sep	Section 7.2 Consent	Sections 5,6,7 Registry / Registrar Requirements
16	24-Sep	TBD	
17	25-Sep	TBD	
18	26-Sep	TBD	
19	2-Oct	Sections 4.1-3, 4.5, C.1-2 - Principles & Lawfulness for Processing	Appendix A 1.0 - RDAP & Search
20	4-Oct	Sections 4.1-3, 4.5, C.1-2 - Principles & Lawfulness for Processing	Appendix A 4.0 - Access to Non-public data
21	9-Oct	Appendix D, E, G - URS, UDRP, Transfers*	Sections 1,2,3, & 8 - Scope, Definitions, Effective Date, Misc.*
22	11-Oct	Appendix B - Data Escrow + Appendix F - Bulk Transfers	Prepare for ICANN meeting
23	16-Oct	Prepare for ICANN meeting	

* Redacted data set survey to be sent by 4 Sept
Triage; Appendices D,E, G to be discussed via online forum

**Touch base on comments received on & review
status of:
Appendix D – Uniform Rapid Suspension**

Agenda Item #5a

**Touch base on comments received on & review
status of:
Appendix E – Uniform Domain Name Resolution
Dispute Policy**

Agenda item #5b

Touch base on comments received on & review status of:

Appendix G: Supplemental Procedures to the Transfer Policy

Agenda item #5c

Commence deliberations for section 4.4 – Lawfulness and Purpose of Processing gTLD Registration Data

Agenda Item #6

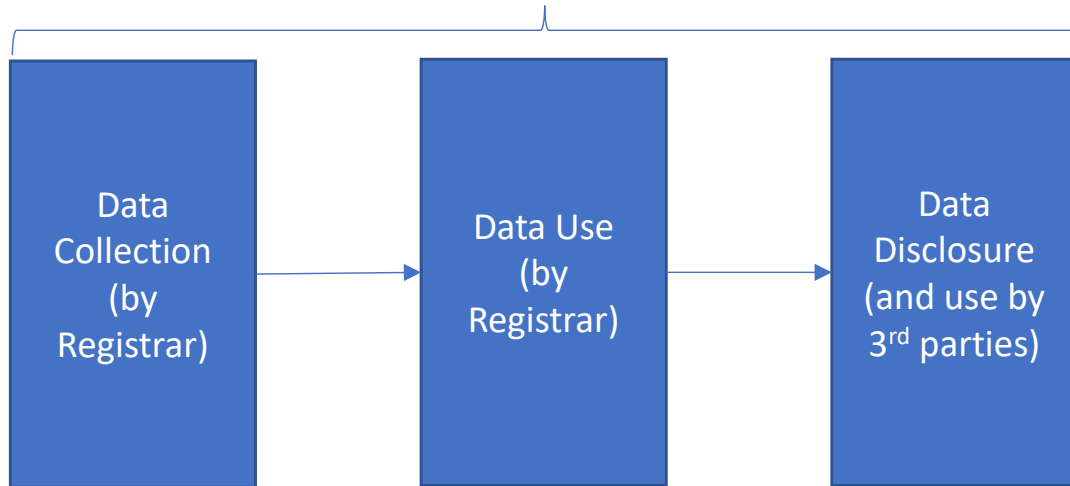
Background

- ⦿ Section 4.4. of the Temporary Specification describes legitimate purposes for which Personal data included in Registration Data may be processed on the basis of a legitimate interest not overridden by the fundamental rights and freedoms of individuals whose Personal Data is included in Registration Data.
- ⦿ Registration data: data collected from a natural or legal person in connection with a domain name registration (from Temporary Specification)
- ⦿ Personal data: any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person. (from the GDPR)

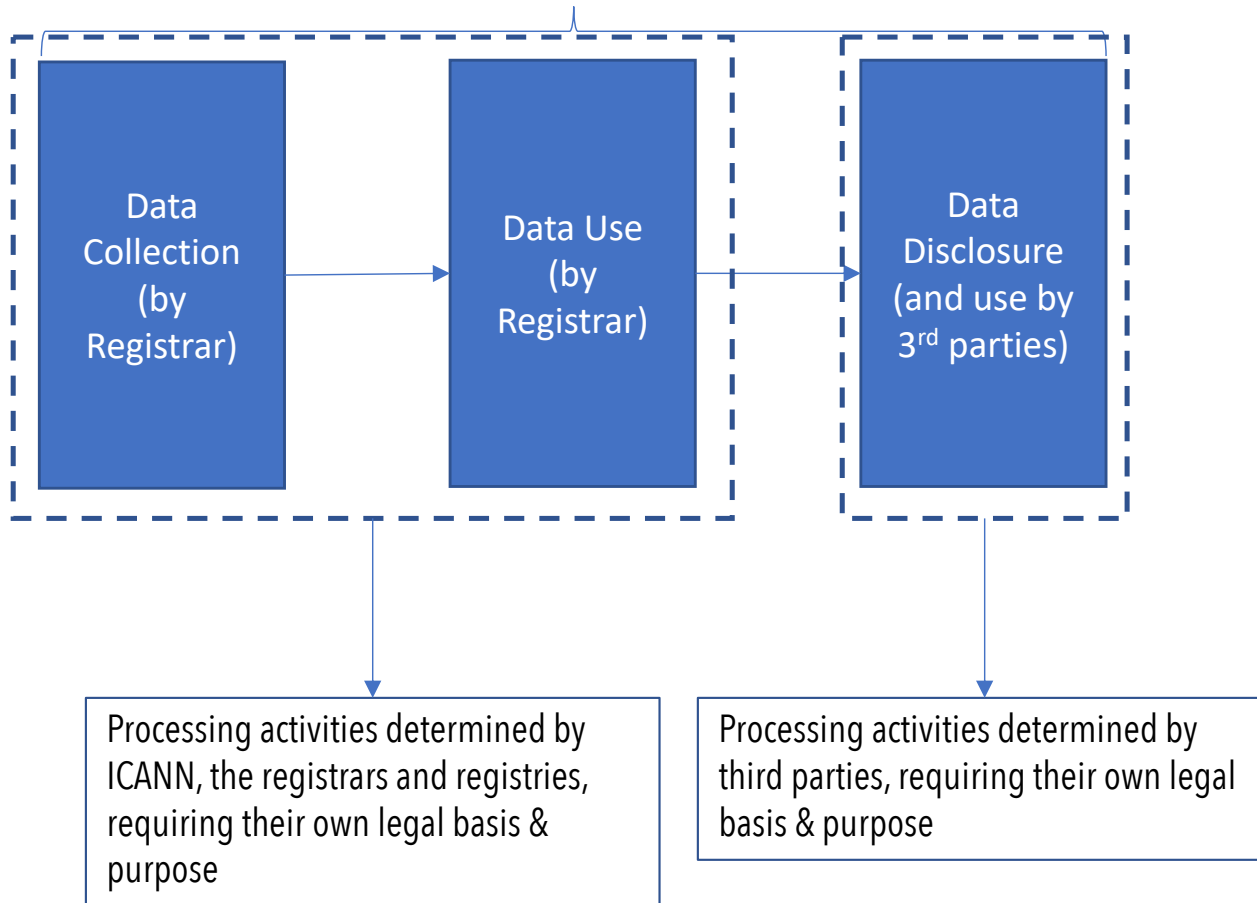
EDPB advice

- ⊙ There are processing activities determined by ICANN, for which ICANN, the registrars and registries, require their own legal basis and then there are processing activities determined by third parties, which require their own legal basis and purpose.
- ⊙ ICANN should take care not to conflate its own purposes with the interests of third parties.
- ⊙ Data legitimately collected by ICANN, registrars and registries would not categorically exclude the subsequent disclosure of personal data to third parties for their own (legitimate) interests and purposes.
- ⊙ Personal data disclosure can be made for the purposes of the legitimate interests third parties, provided that those interests are not overridden by the interests or fundamental rights and freedoms of the data subject, i.e., disclosure is proportionate and limited to that which is necessary and the other requirements of the GDPR are met.

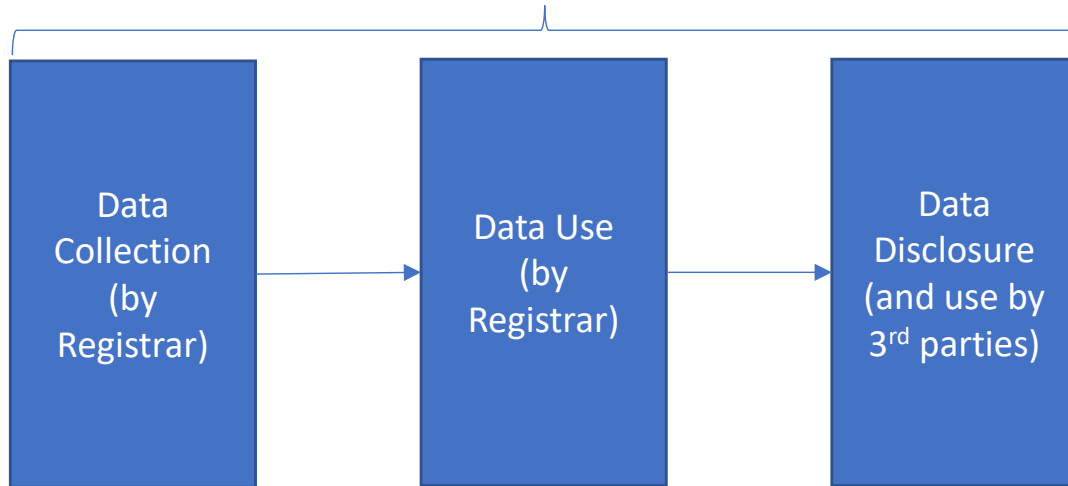
DATA PROCESSING



DATA PROCESSING

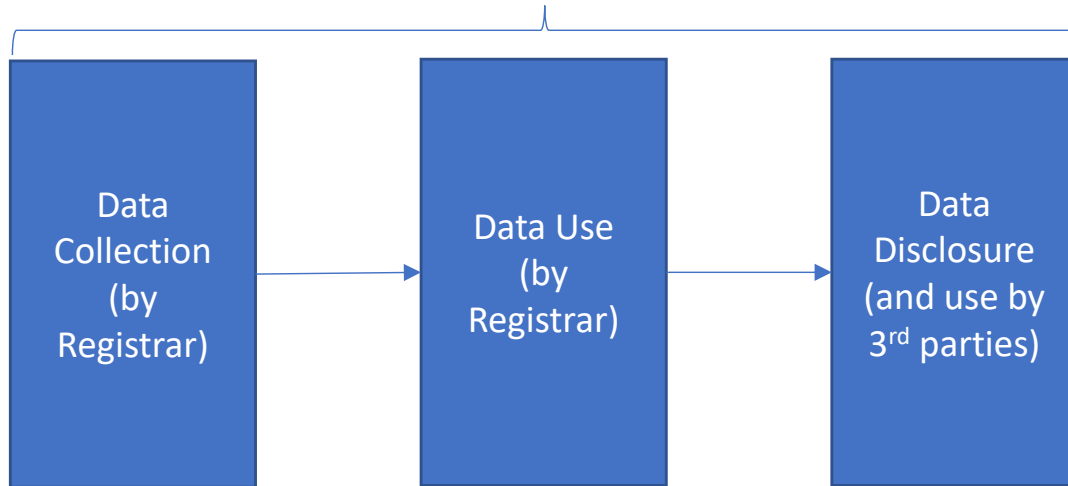


DATA PROCESSING



Limited to the data necessary to provide services bargained for and required by contract

DATA PROCESSING

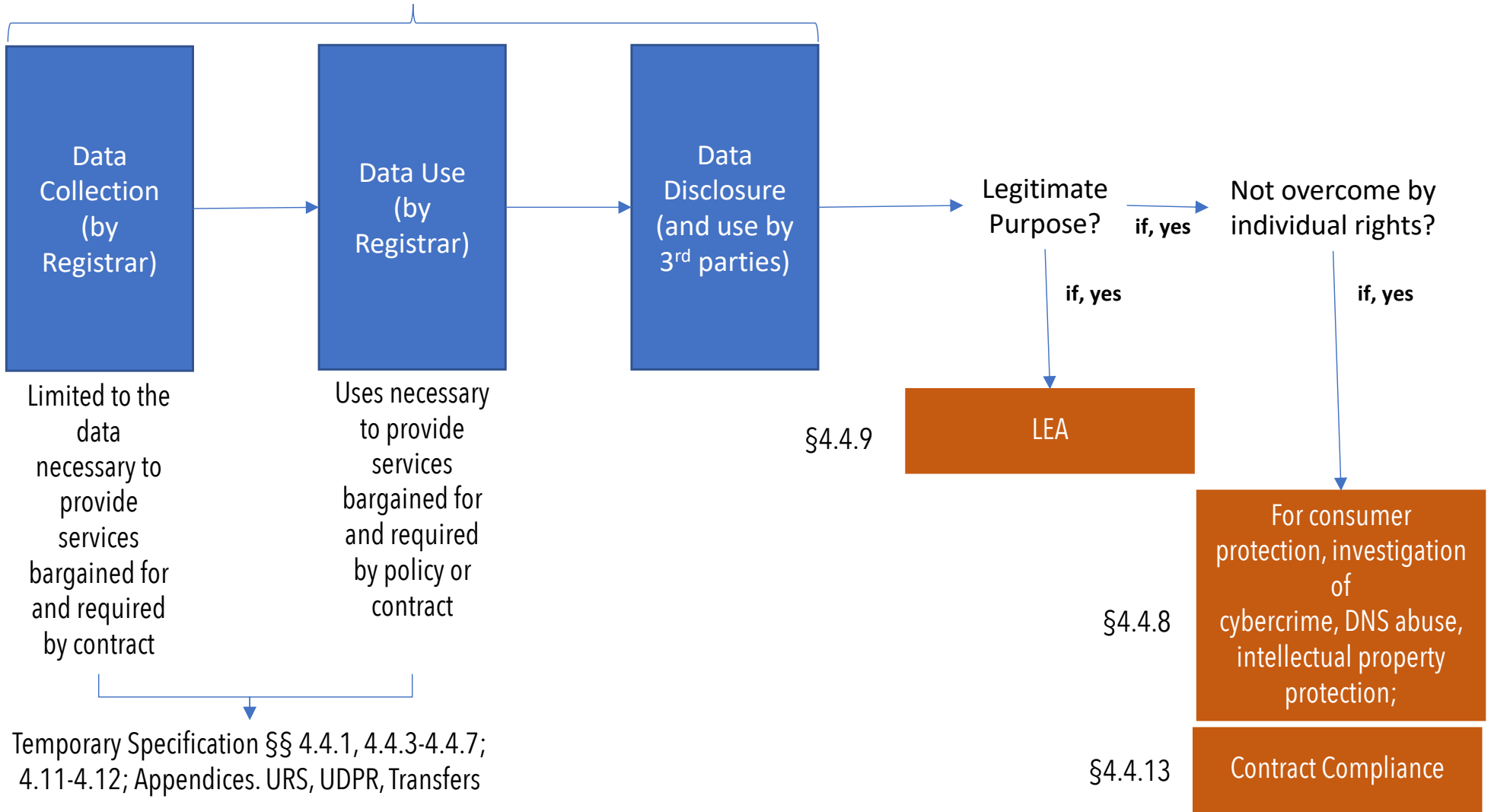


Limited to the data necessary to provide services bargained for and required by contract

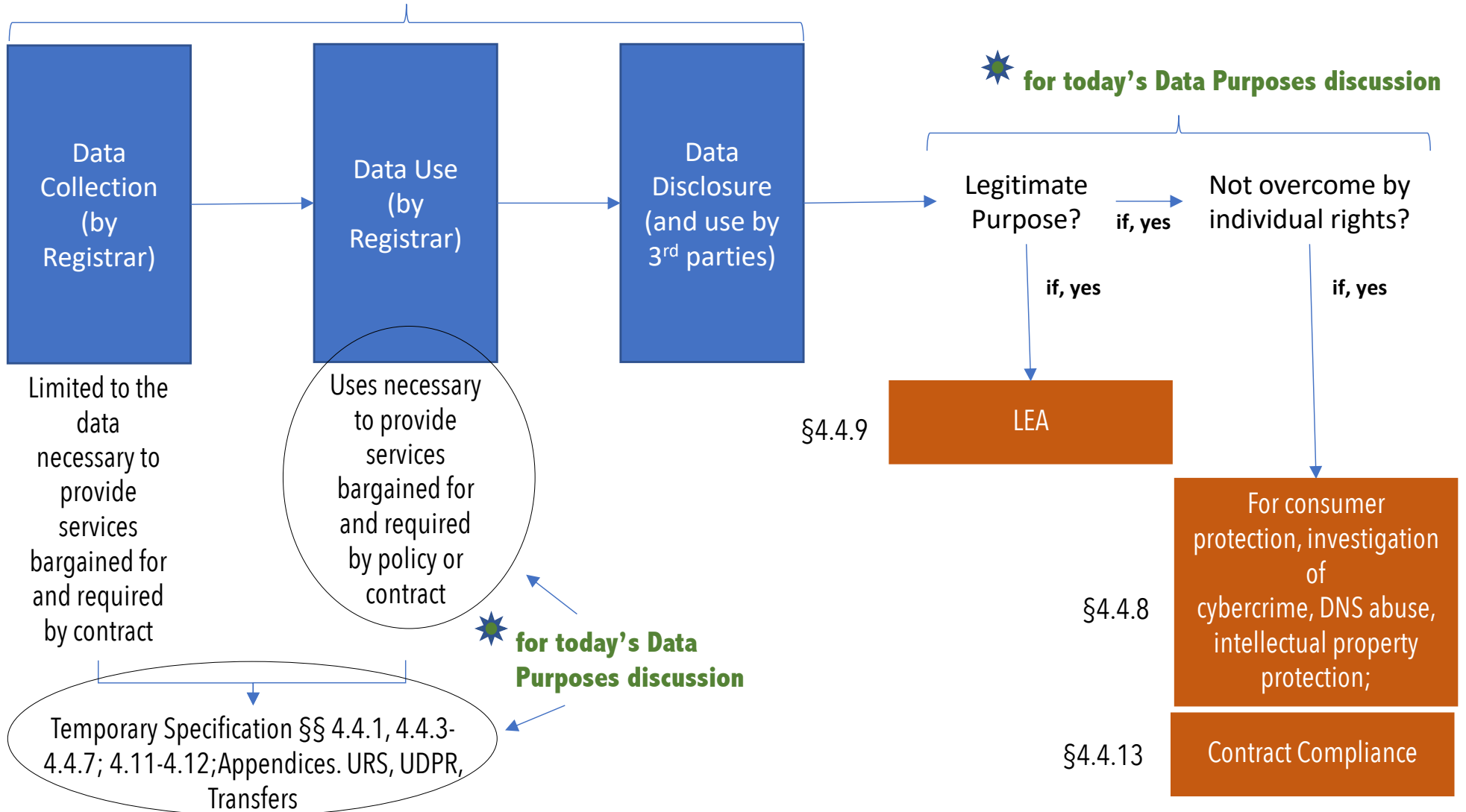
Uses necessary to provide services bargained for and required by policy or contract

Temporary Specification §§ 4.4.1, 4.4.3-4.4.7; 4.11-4.12; Appendices. URS, UDPR, Transfers

DATA PROCESSING



DATA PROCESSING



By whom are purposes pursued?

Purpose	Pursued by
4.4.1. – Ability for Registered Name Holder to exercise its rights	Rr/Ry/ICANN
4.4.2. – Providing access	Third party*
4.4.3. – Enabling mechanism for identifying and contacting RNH	Rr/Ry/ICANN
4.4.4. – Payment and invoicing	Rr
4.4.5. – Notification of technical issues	Rr/Ry/ICANN
4.4.6. - Notification of commercial or technical changes	Ry/Rr
4.4.7. – Technical and administrative points of contact	Rr/Ry/ICANN
4.4.8. – Supporting a framework to address issues	Third party
4.4.9. – Framework to address LE needs	Third party
4.4.10. – Provision of zone files to Internet users	Third party
4.4.11. – Safeguarding in case of business or technical failure	Rr/Ry/ICANN
4.4.12. – Dispute resolution services	Rr/Ry/ICANN
4.4.13. – Compliance	ICANN

* the personal data processed in the context of WHOIS can be made available to third parties who have a legitimate interest in having access to the data, provided that appropriate safeguards are in place to ensure that the disclosure is proportionate and limited to that which is necessary and the other requirements of the GDPR are met, including the provision of clear information to data subjects.

Registrar-Registry-ICANN Contract Purposes	Third-Party Purposes
4.4.1. – Ability for Registered Name Holder to exercise its rights	4.4.2. – Providing access based on legitimate interests not outweighed by the fundamental rights
4.4.3. – Enabling mechanism for identifying and contacting registered name holder	4.4.8. – Supporting a framework to address consumer protection, investigation of cybercrime, DNS abuse, IP protection
4.4.4. – Payment and invoicing	4.4.9. – Framework to address LE needs
4.4.5. – Notification of technical issues	4.4.10. – Provision of zone files to Internet users
4.4.6. - Notification of commercial or technical changes	4.4.13. – ICANN Contractual Compliance
4.4.7. – Technical & administrative points of contact	
4.4.11. – Safeguarding in case of failure	
4.4.12. – Dispute resolution services	

Are the purposes enumerated here valid and legitimate?

Do those purposes have a corresponding legal basis?

Should any of the purposes be eliminated or adjusted?

Should any purposes be added?

Possible path forward

Registrar-Registry-ICANN Contract Purposes

4.4.1. – Ability for Registered Name Holder to exercise its rights

4.4.3. – Enabling mechanism for identifying and contacting registered name holder

4.4.4. – Payment and invoicing

4.4.5. – Notification of technical issues

4.4.6. - Notification of commercial or technical changes

4.4.7. – Technical & administrative points of contact

4.4.11. – Safeguarding in case of failure

4.4.12. – Dispute resolution services



For Registrars:

- 1) Are there additional legitimate reasons why contracted parties collect data from registrants?
- 2) Should these purposes be re-grouped in some way to better capture their relevance, necessity and the data needed to support them?
- 3) List and consolidate the data necessary to support all for the purposes

Can we use RDS Working Group product?

Possible path forward

Third-Party Purposes

4.4.2. – Providing access based on legitimate interests not outweighed by the fundamental rights

4.4.8. – Supporting a framework to address consumer protection, investigation of cybercrime, DNS abuse, IP protection

4.4.9. – Framework to address LE needs

4.4.10. – Provision of zone files

4.4.13. – ICANN Contractual Compliance

For the initial report:

If there are instances where personal data can be made available to third parties under these conditions, then we can retain the purpose in the Specification

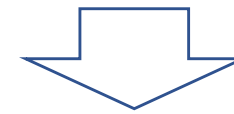
Describe the data elements required

For the Access discussion:

Determine the safeguards and limitations necessary to ensure GDPR-compliant disclosures

Are the purposes enumerated here valid and legitimate?

Do those purposes have a corresponding legal basis?



Personal data can be made available to third parties:

- having a legitimate interest,
- provided that appropriate safeguards are in place
- disclosure is proportionate and limited to that which is necessary
- other GDPR requirements are met

Wrap Up

Agenda item #7 & #8

Wrap Up

Review actions items and questions for ICANN Org, if any

Next meeting to be scheduled for Thursday 30 August at 13.00 UTC