

## EPDP Team Planning – 2 October – 25 October 2018 (version 1 October 2018)

---

The proposed call schedule below and topics identified for each of these sessions is based on the outstanding action items in relation to the data elements workbooks which are essential to address most of the charter questions, as well as the list of charter questions remaining to be addresses, which are not addressed through the data elements workbooks.

The idea is that a couple of small teams are formed (max. 1 representative per SG/C/AC) to prepare certain topics for review / discussion during the Saturday F2F meeting of the EPDP Team at ICANN63, similar to how this was done for a number of items during the LA F2F meeting. These meetings are preceded by ‘small team’. The other meetings, preceded by ‘EPDP Team’ denote plenary sessions. Depending on the progress of small teams, these may decide to organize additional meetings.

EPDP Team / Small Team meetings	Charter Questions remaining to be addressed	Data Elements workbook items remaining to be addressed	Notes
EPDP Team <b>Tuesday 2 October</b> 13.00 – 15.00 UTC		1. Legal Basis for all purposes 2. Purpose C Data Elements Workbook	CBI team unavailable to attend this meeting
Small Team #1 <b>Wed 3 October</b> 13.00 – 15.00 UTC	h) Applicability of Data Processing Requirements h3) Should Contracted Parties be allowed or required to treat legal and natural persons differently, and what mechanism is needed to ensure reliable determination of status? h4) Is there a legal basis for Contracted Parties to treat legal and natural persons differently?		Input provided in response to <a href="#">Appendix A google doc</a> could be used as a starting point?

	h5) What are the risks associated with differentiation of registrant status as legal or natural persons across multiple jurisdictions? (See EDPB letter of 5 July 2018).		
EPDP Team <b>Thursday 4 October</b> 13.00 – 15.00 UTC		Purpose E (Ry Escrow, EBERO) Data Elements Workbook Purpose F Data Elements Workbook Purpose N Data Elements Workbook New Purpose (Research) Data Elements Workbook	Dependent on ‘homework’ on these items being delivered in a timely manner
Small Team #2 <b>Friday 5 October</b> 13.00 – 15.00 UTC	(Ref. TempSpec App A §§2.1 & 3 h) Applicability of Data Processing Requirements h1) Should Registry Operators and Registrars (“Contracted Parties”) be permitted or required to differentiate between registrants on a geographic basis? h2) Is there a legal basis for Contracted Parties to differentiate between registrants on a geographic basis?		Gina (CBI) available to attend
EPDP Team <b>Tuesday 9 October</b> 13.00 – 15.00 UTC	c) Transfer of data from registrar to registry:		CBI team unavailable to attend this meeting

	<p>c4) Is there a legal reason why registrars should not be required to transfer data to the registries, in accordance with previous consensus policy on this point?</p> <p>c5) Should registries have the option to require contact data or not?</p> <p>Publication of data by registrar/registry:</p> <p>f2) Should standardized requirements on registrant contact mechanism be developed?</p> <p>f3) Under what circumstances should third parties be permitted to contact the registrant, and how should contact be facilitated in those circumstances?</p>		<p>Dependent on work having completed on the data elements workbooks identifying what data is required to be transferred for the different purposes between registrars and registries and how that may affect existing consensus policy requirements.</p>
<p>Small Team #3 <b>Wed 10 October</b> 13.00 – 15.00 UTC</p>	<p>j). Temporary Specification and Reasonable Access</p> <p>j1) Should existing requirements in the Temporary Specification remain in place until a model for access is finalized?</p> <p>j2) Can the obligation to provide “reasonable access” be further clarified and/or better defined? (shortened version – see full question below)</p>		

EPDP Team <b>Thursday 11 October</b> 13.00 – 15.00 UTC		Purpose B	Purpose B - dependent on 'homework' in relation to this item being delivered in a timely manner
EPDP Team <b>Tuesday 15 October</b> 13.00 – 15.00 UTC	Air time for small team topics in preparation for Saturday meeting highlighting main questions / issues to be addressed		
EPDP Team <b>Saturday 20 Oct</b> 8.30 – 18.30 F2F Meeting ICANN63	Charter Question H Charter Question J	Purpose B Any outstanding issues in relation to the data elements workbooks	
EPDP Team <b>Sunday 21 October</b> 17.00 – 18.30	Preparation for High Interest Topic Session		
EPDP Team <b>Monday 22 October</b> 15.15 – 16.45	High Interest Topic Session – Presentation of draft Initial Report and Preliminary Recommendations		
EPDP Team <b>Wed 24 October</b> 17.00 – 18.30	b) Collection of registration data by registrar: b3) How shall legitimacy of collecting data be defined (at least for personal data collected from European registrants and others in jurisdictions with data protection law)?  k) ICANN's responsibilities in processing data	Any remaining items needing to be addressed prior to publication of Initial Report.	Ideally these items are addressed through mailing list conversations and may not require F2F time.

	<p>k2) In addition to any specific duties ICANN may have as data controller, what other obligations should be noted by this EPDP Team, including any duties to registrants that are unique and specific to ICANN's role as the administrator of policies and contracts governing gTLD domain names?</p> <p>l) Registrar's responsibilities in processing data</p> <p>l4) What are the registrar's responsibilities to the data subject with respect to data processing activities that are under ICANN's control?</p> <p>m) Registry's responsibilities in processing data</p> <p>m4) What are the registry's responsibilities to the data subject based on the above?</p> <p>q) Sun-setting WHOIS Contractual Requirements</p> <p>q1) After migration to RDAP, when can requirements in the Contracts to use WHOIS protocol be eliminated?</p>		
--	---	--	--

	q2) If EPDP Team's decision includes a replacement directory access protocol, such as RDAP, when can requirements in the Contracts to use WHOIS protocol be eliminated?		
EPDP Team <b>Thurs 25 October</b> 8.30 – 10.15	Any remaining items needing to be addressed prior to publication of Initial Report.		

## REMAINING CHARTER QUESTIONS

List of charter questions remaining to be addressed (note, this list focuses on charter questions that have either not been discussed yet or for which there is no clear path yet on how to address these):

- b) Collection of registration data by registrar:
  - b3) How shall legitimacy of collecting data be defined (at least for personal data collected from European registrants and others in jurisdictions with data protection law)?
- c) Transfer of data from registrar to registry:
  - c4) Is there a legal reason why registrars should not be required to transfer data to the registries, in accordance with previous consensus policy on this point?
  - c5) Should registries have the option to require contact data or not?
- f) Publication of data by registrar/registry:
  - f2) Should standardized requirements on registrant contact mechanism be developed?
  - f3) Under what circumstances should third parties be permitted to contact the registrant, and how should contact be facilitated in those circumstances?
- h) Applicability of Data Processing Requirements

- h1) Should Registry Operators and Registrars (“Contracted Parties”) be permitted or required to differentiate between registrants on a geographic basis?
- h2) Is there a legal basis for Contracted Parties to differentiate between registrants on a geographic basis?
- h3) Should Contracted Parties be allowed or required to treat legal and natural persons differently, and what mechanism is needed to ensure reliable determination of status?
- h4) Is there a legal basis for Contracted Parties to treat legal and natural persons differently?
- h5) What are the risks associated with differentiation of registrant status as legal or natural persons across multiple jurisdictions? (See EDPB letter of 5 July 2018).

j). Temporary Specification and Reasonable Access

- j1) Should existing requirements in the Temporary Specification remain in place until a model for access is finalized?

A. If so:

- 1. Under Section 4 of Appendix A of the Temporary Specification, what is meant by “reasonable access” to Non-Public data?
- 2. What criteria must Contracted Parties be obligated to consider in deciding whether to disclose non-public Registration data to an outside party requestor (i.e. whether or not the legitimate interest of the outside party seeking disclosure are overridden by the interests or fundamental rights or freedoms of the registrant)?

B. If not:

- 1. What framework(s) for disclosure could be used to address (i) issues involving abuse of domain name registrations, including but not limited to consumer protection, investigation of cybercrime, DNS abuse and intellectual property protection, (ii) addressing appropriate law enforcement needs, and (iii) provide access to registration data based on legitimate interests not outweighed by the fundamental rights of relevant data subjects?
- j2) Can the obligation to provide “reasonable access” be further clarified and/or better defined through the implementation of a community-wide model for access or similar framework which takes into account at least the following elements:
- 1. What outside parties / classes of outside parties, and types of uses of non-public Registration Data by such parties, fall within legitimate purposes and legal basis for such use?
  - 2. Should such outside parties / classes of outside parties be vetted by ICANN in some manner and if so, how?
  - 3. If the parties should not be vetted by ICANN, who should vet such parties?
  - 4. In addition to vetting the parties, either by ICANN or by some other body or bodies, what other safeguards should be considered to ensure disclosure of Non-Public Personal Data is not abused?

- k) ICANN's responsibilities in processing data
  - k2) In addition to any specific duties ICANN may have as data controller, what other obligations should be noted by this EPDP Team, including any duties to registrants that are unique and specific to ICANN's role as the administrator of policies and contracts governing gTLD domain names?
- l) Registrar's responsibilities in processing data
  - l4) What are the registrar's responsibilities to the data subject with respect to data processing activities that are under ICANN's control?
- m) Registry's responsibilities in processing data
  - m4) What are the registry's responsibilities to the data subject based on the above?
- q) Sunsetting WHOIS Contractual Requirements
  - q1) After migration to RDAP, when can requirements in the Contracts to use WHOIS protocol be eliminated?
  - q2) If EPDP Team's decision includes a replacement directory access protocol, such as RDAP, when can requirements in the Contracts to use WHOIS protocol be eliminated?