

**This is my review of the updated Annex D v2, Feb 5 2019 version. My apologies if I should've done it sooner, but here we are.**

- I generally think that the data elements that are collected should be further minimized, however to respect the work of the plenary I am not pushing for that change and will remain with the agreed data set
- **Definition of Publication** as “The processing action whereby data is disclosed to third parties, by being made public<sup>1</sup> available for a public interest purpose.”
  - Why is this public interest? What if the data is published because the RNH consented, and so the GDPR legal basis is 6-1a?
- **My answers to CL&D questions from ICANN Org<sup>2</sup>**
  - 1 - we should display the field name even when the field data is redacted
  - 2 - Ry should weigh in more than Rr, but it seems to me that this obligation should continue
  - 3 - no input
  - 4 - the Data Retention Specification itself is not sufficiently grounded in legal basis to retain the data, so any retained elements should be defined in the relevant EPDP Purpose
  - 5 - Registrar can do an audit and identify any domains with missing required elements, and get those domain owners to update their registration records. EPDP does not need to dictate exactly how this should be resolved
  - 6 - since there is no consensus on definition of optional, it is up to each CP to decide
- **Comments common to all purposes**
  - Data elements maps show data<sup>3</sup> going from registrar to registrant, shouldn't it be the other way? And from ICANN org to registrar, but ICANN org doesn't hold the data at any point?
  - We should indicate somewhere that not ALL data are necessarily Required to be disclosed, maybe in the section description for each Purpose.
    - This is the aggregate of which data<sup>4</sup> may be disclosed, but specific elements TBD depending on the situation
    - Purpose 2 says “(Note: the requisite balancing test must be performed for each third-party type of disclosure.)” this<sup>5</sup> should be expanded to be more clear that it means not all data elements every time
- **Purpose 1A**
  - No changes
- **Purpose 1B**
  - Should “Last Update of Whois Database” in 2-PA3 (Disclosure) be Required?
- **Purpose 2**
  - Transfer of data to registry (2-PA2) is not required<sup>6</sup> for this purpose, that column should be blank
- **Purpose 3**

- As mentioned in the comment, Purpose 3 does not mention a tech contact. We need to remove the Tech Contact from this Purpose, and thus remove the requirement to allow the Tech contact to be contactable, in order to respect the plenary group's updated Purpose 3
- For Redaction 3-PA5, Registrant Org field is marked as NO (not redacted), but the updated Rec. #9 does allow for redaction of this field in some circumstances. Should it be YES with a footnote?
- **Purpose 4A**
  - Under Collection (41-PA1) Reseller should be be O-CP, it's not mandatory
- **Purpose 4B**
  - This is a big data set to escrow, is it aligned with current requirements? What happens if the Registry isn't holding this data, should they be marked as O-CP?
- **Purpose 5**
  - 5-PA1 Lawful Basis box refers to Purpose F, should be updated to be Purpose 5
  - 5-PA3 Lawful Basis box should be updated to mention that not every element needs to be transferred to ICANN Org, the specific fields depend on the situation
- **Purpose 6**
  - 6-PA2 - no data needs to be transferred from registrar to registry for this purpose, this column should be entirely blank
- **Purpose 7**
  - No changes

#### Data elements matrix

- On page 3, the chart is showing the Transfer processing activity, so the ones that show 1A-PA1 1B-PA1 2-PA1 should instead be showing PA2. (Maybe page 3 didn't get updated yet?)
- On the main workbook for 1A-PA2 the column is blank, but on the big Matrix they are R or O-RNH, it should be blank to match the workbook
- On the workbook for 1B-PA2 it's all O-CP, but the Matrix has as R or O-RNH, they should be O-CP
- Purpose 2-PA2 and 6-PA2 should be blanked out as per my comment on the Purpose 2 and Purpose 6 workbooks



