



ICANN PURPOSE:

Coordinate the development and implementation of policies for resolution of disputes² regarding the registration of domain names (as opposed to the use of such domain names). (ICANN bylaws Annex G and 1(1) section 1(a))

Nexus: (Purposes by Actor (M))(TempSpec – URS-4.4.12, 5.6, Appx D; UDRP-Appx E)

Purpose Rationale:

1) If the purpose is based on an ICANN contract, is this lawful as tested against GDPR and other laws?

Yes.

ICANN Org to provide EPDP Team with copy of agreements with UDRP/URS providers in relation to data protection / transfer of data as well as the relevant data protection policies that dispute resolution providers have in place.

Rights Protection Mechanisms (RPMs) provisions exist within both the Registry and Registrar agreements as connected to ICANN Bylaws. This purpose is connected to Rights Protection Mechanisms of Uniform Dispute Resolution Mechanism (UDRP) and Uniform Rapid Suspension (URS), but it does not preclude RPMs that could be created or modified in the future. The

RDDR, PDDR and PICDR RPMs were also considered whether they should be connected to this purpose. However, it was determined that these RPMs do not involve registration data.

2) Is the purpose in violation with ICANN's bylaws?

No.

ICANN bylaws, Section 1.1(a)(i), as a part of "Mission" refer to Annexes G1 and G2. Annex G-1 contains a provision for Registrars, "resolution of disputes regarding the registration of domain names (as opposed to the use of such domain names, but including where such policies take into account use of the domain names)". Annex G-2 also contains, "resolution of disputes regarding the registration of domain names (as opposed to the use of such domain names); or".

3) Are there any "picket fence" considerations related to this purpose?

No.

RPMs are considered within the picket fence for the development of consensus policies. As it relates to the disclosure of registration data to RPM Providers and Complainants, existing policy, rules and procedures around the URS and UDRP do not specify how registration data is obtained. The Temp Spec (Appendix D & E) now makes reference to who an RPM provider must contact based on Thick or Thin RDS to obtain registration data for the complaint.

Commented [BC1]: Staff suggests deleting is it is rationale that supports the purpose and documented under Question #2 below.

Commented [BC2]: Not specifically answered in v0.4.5. Refer to processing activities below.

Commented [BC3]: Note, only MOUs exist with URS providers. <https://newgtlds.icann.org/en/applicants/urs>

Commented [BC4]: Added by LA breakout team from Question #9 in v0.4.5

Commented [BC5]: Staff suggestion for response.

Commented [BC6]: 1. With respect to ICANN's references to dispute resolution policies within the Temporary Specification, is there a reason only the URS and UDRP were included and not other dispute resolution procedures such as RDDR, PDDR and PICDR?

The RDDR, PDDR, and PICDR <<https://newgtlds.icann.org/en/program-status/pddrp>> are dispute resolution procedures where the gTLD registry operators themselves are the respondents. Under the Registrar Transfer Dispute Resolution Policy <<https://www.icann.org/resources/pages/tdrp-2016-06-01-en>> the respondents are registrars. This is different from URS and UDRP proceedings where individual domain registrants are the respondents. (Note: gTLD registry agreements may also contain other dispute resolution procedures, for example, .NAME has an "Eligibility Requirements Dispute Resolution Policy" <<https://www.icann.org/resources/pages/appendix-11-2013-07-08-en>>.)

Commented [BC7]: Added by LA break out team on Lawful Basis

Commented [BC8]: Staff suggestion for response.

Lawfulness of Processing Test:

Processing Activity:	Responsible Party: <small>(Charter Questions 3k, 3l, 3m)</small>	Lawful Basis <small>(Is the processing necessary to achieve the purpose?)</small>
M-PA1: Collection of registration data to implement the (UDRP, URS) (Charter Question 2b)	Registrars - Processor	6(1)(b) This is a 6(1)(b) purpose because it is necessary to collect registration data in order to facilitate/implement a UDRP or URS decision. For example, in the case of a UDRP/URS proceeding, the registrant must agree to be bound by the UDRP/URS in order to register a domain name, so the collection of data for this purpose is necessary to fulfill the registration agreement.
	ICANN – Controller Registries – Processor	6(1)(f) ICANN and Registries do not have a direct contract with the registrant. Registries: in order to give effect to agreed to and contractually bound RPMs, the registry must process data to play it's part in the implementation of the RPMs (A DPIA must be carried out regarding each of the RPMs and the data required)
M-PA2: Transmission of registration data from registrar to registry (Charter Questions 2c, 2d, 2e, 2i)	Registrars – Processor	Yes. 6(1)(b) Art 6.1 (b) / URS, UDRP: Yes – all data is transferred to dispute resolution provider and to registry Question for compliance: does data need to be transferred to registries for UDRP?
	ICANN - Controller Registries - Processor	6(1)(f) ICANN and Registries do not have a direct contract with the registrant. Registries: in order to give effect to agreed to and contractually bound RPMs, the registry must process data to play it's part in the implementation of the RPMs (A DPIA must be carried out regarding each of the RPMs and the data required)
M-PA3: Transmission of registration data to dispute resolution provider (Charter Questions 2c, 2d, 2e, 2i)	ICANN - Controller Registries - Processor Registrars – Processor Dispute Resolution Provider – Processor	6(1)(f) This is a 6(1)(f) purpose because although there may be a legitimate interest in transmitting registration data to dispute resolution providers, this transmission is not technically necessary to perform the registration contract.
M-PA4: Disclosure of		

Commented [BC9]: <<Select One>>

Processing shall be lawful only if and to the extent that at least one of the following applies:

Art. 6(1)(b): processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract.

Art. 6(1)(f): processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.

Art. 6(1)(a): Consent - the data subject has given consent to the processing of his or her personal data for one or more specific purposes.

Commented [BC10]: As noted under Purpose Rationale, PICCDRP, RDDRP, PDDRP Removed.

Commented [BC11]: 26 Sep – Lawful basis small team in LA.

Commented [BC12]: Suggest Deleting as Registries do not collect Registration data from the Registrant

Commented [BC13]: Suggest removing referent to Registries here.

Commented [BC14]: 3 Oct – Alan W. suggestion from Legal Memo

Commented [BC15]: Added by LA breakout team from Question #5 in v0.4.5

Commented [BC16]: 3 Oct – Alan W. suggestion from Legal Memo

Commented [BC17]: 3 Oct – Alan W. suggestion from Legal Memo

“Dispute Resolution Provider (where not ICANN themselves) – Processor”

Commented [BC18]: 26 Sep – Lawful basis small team in LA.

Commented [BC19]: Should the group document the disclosure of domain and Registrant name on completed disputes?

<p>(Charter Questions 2f (gating questions), 2j)</p>		<p>Data to be published in a freely accessible directory</p> <ul style="list-style-type: none"> - Domain Name - Registrar Whois Server - Registrar URL - Updated Date - Creation Date - Registry Expiry Date - Registrar Registration Expiration Date - Registrar - Registrar IANA ID - Registrar Abuse Contact Email - Registrar Abuse Contact Phone - Reseller - Domain Status <p>Should there be any changes made to the registrant data that is required to be redacted? No</p> <p>Under what circumstances should third parties be permitted to contact the registrant? Already covered by UDRP and URS providers as being third parties.</p>
<p>M-PA5: Retention of (Charter Questions 2g, ??)</p>		<p>Currently no requirements for data retention by dispute resolution providers that the EPDP Team is aware of</p> <p>Life of registration plus 2 years for registrars – To be further discussed by the EPDP Team (not clear what rationale is for current requirements –might be linked to statute of limitations) Data retention requirement for registrars should be uniform with other requirements.</p> <p>Proposed Policy Recommendation: ICANN Org should enter into data processing agreements with dispute resolution providers in which the data retention period is addressed, considering the interest in having publicly available decisions.</p>

Commented [BC20]: Added by LA breakout team from Question #5 in v0.4.5

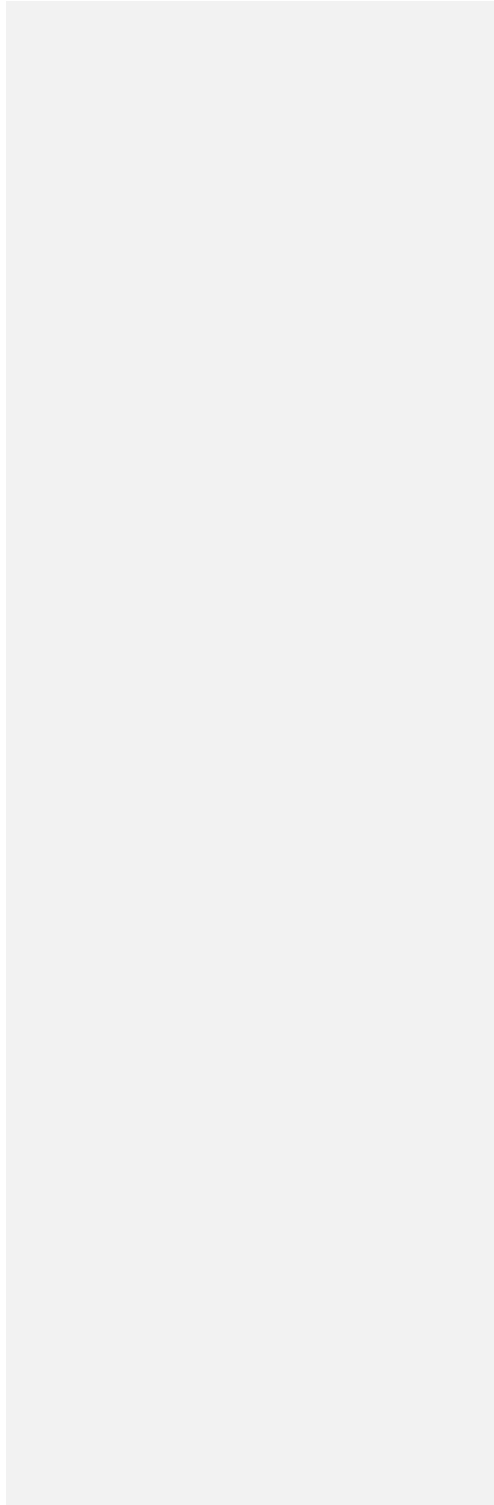
Can the fields be deleted and reference in the data elements matrix?

Commented [BC21]: Retention of registration data at Ry & Rr will follow retention of data under Purpose A or B.

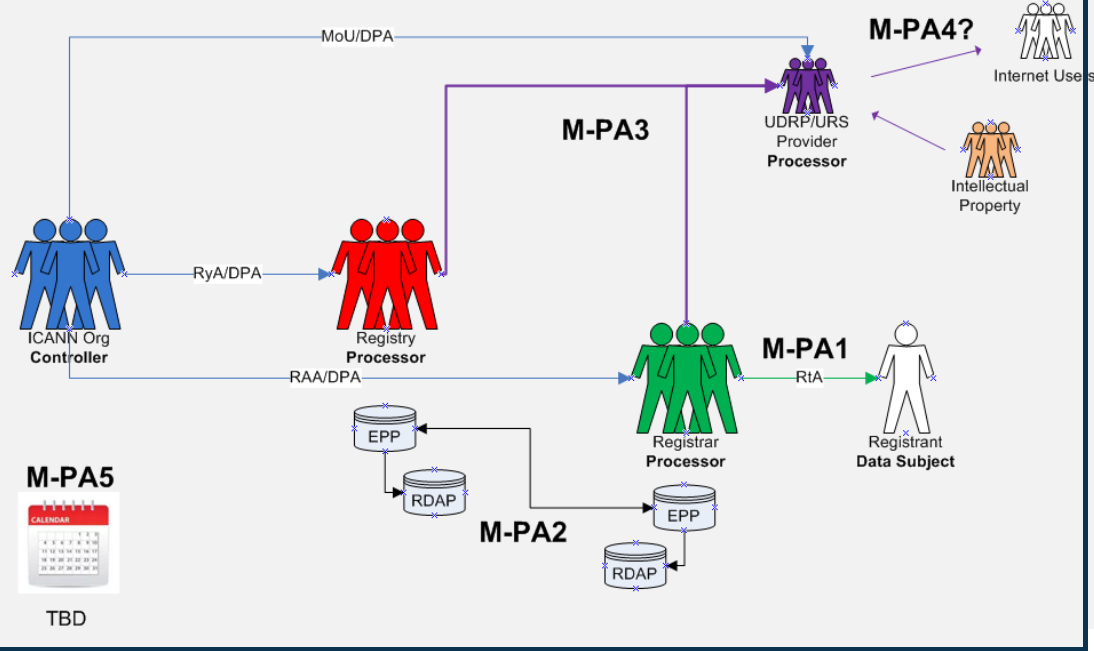
Should the group document retention for registration data received at the DRPs? Should it mention the the domain and Registrant name posted on a UDRP/URS case?

Commented [BC22]: Added by LA breakout team from Question #8 in v0.4.5

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Data Elements Map:



Data Elements Matrix:

"1" = Required "(1)" = Optional "-" = Not Required or Optional

Data Element	Collection M-PA1	Transmission M-PA2	Transmission M-PA3	Disclosure M-PA4	Retention M-PA5	TBD M-PA6
Domain Name	1	1-	1-	1	-	-
Registry Domain ID	-	1-	1-	-	-	-
Registrar Whois Server	1	1-	1-	-	-	-
Registrar URL	1	1-	1-	-	-	-
Updated Date	1	1-	1-	-	-	-
Creation Date	1	1-	1-	-	-	-
Registry Expiry Date	1	1-	1-	-	-	-
Registrar Registration Expiration Date	1	1-	1-	-	-	-
Registrar	1	1-	1-	-	-	-
Registrar IANA ID	1	1-	1-	-	-	-
Registrar Abuse Contact Email	1	1-	1-	-	-	-
Registrar Abuse Contact Phone	1	1-	1-	-	-	-
Reseller	1	1-	1-	-	-	-
Domain Status	1	1-	1-	-	-	-
Registry Registrant ID	-	1-	1-	-	-	-

Commented [BC23]: Can be deleted after confirmed

Commented [BC24]: Added by LA break out team

Commented [BC25]: Staff suggestions based on Collection, was not filled out on v0.4.5

Commented [BC26]: Staff suggestions based on Collection, was not filled out on v0.4.5

Commented [BC27]: Staff suggestions to demonstrate what is disclosed on a provider site within a complaint.

Data Element	Collection M-PA1	Transmission M-PA2	Transmission M-PA3	Disclosure M-PA4	Retention M-PA5	BC23 M-PA6
Registrant Fields						
• Name	1	<u>1-</u>	<u>1-</u>	<u>-1</u>	-	-
• Organization (opt.)	(1)	<u>(1)-</u>	<u>(1)-</u>	<u>-1</u>	-	-
• Street	1	<u>1-</u>	<u>1-</u>	-	-	-
• City	1	<u>1-</u>	<u>1-</u>	-	-	-
• State/province	1	<u>1-</u>	<u>1-</u>	-	-	-
• Postal code	1	<u>1-</u>	<u>1-</u>	-	-	-
• Country	1	<u>1-</u>	<u>1-</u>	<u>-1</u>	-	-
• Phone	(1)	<u>(1)-</u>	<u>(1)-</u>	-	-	-
• Phone ext (opt.)	(1)	<u>(1)-</u>	<u>(1)-</u>	-	-	-
• Fax (opt.)	(1)	<u>(1)-</u>	<u>(1)-</u>	-	-	-
• Fax ext (opt.)	(1)	<u>(1)-</u>	<u>(1)-</u>	-	-	-
• Email	1	<u>1-</u>	<u>1-</u>	-	-	-
2nd E-Mail address	-	-	-	-	-	-
Admin ID						
Admin ID	-	-	-	-	-	-
Admin Fields						
• Name	-	-	-	-	-	-
• Organization (opt.)	-	-	-	-	-	-
• Street	-	-	-	-	-	-
• City	-	-	-	-	-	-
• State/province	-	-	-	-	-	-
• Postal code	-	-	-	-	-	-
• Country	-	-	-	-	-	-
• Phone	-	-	-	-	-	-
• Phone ext (opt.)	-	-	-	-	-	-
• Fax (opt.)	-	-	-	-	-	-
• Fax ext (opt.)	-	-	-	-	-	-
• Email	-	-	-	-	-	-
Tech ID						
Tech ID	-	-	-	-	-	-
Tech Fields						
• Name	-	-	-	-	-	-
• Organization (opt.)	-	-	-	-	-	-
• Street	-	-	-	-	-	-
• City	-	-	-	-	-	-
• State/province	-	-	-	-	-	-
• Postal code	-	-	-	-	-	-
• Country	-	-	-	-	-	-
• Phone	-	-	-	-	-	-
• Phone ext (opt.)	-	-	-	-	-	-
• Fax (opt.)	-	-	-	-	-	-
• Fax ext (opt.)	-	-	-	-	-	-
• Email	-	-	-	-	-	-
NameServer(s)	1	-	-	-	-	-

Commented [BC23]: Can be deleted after confirmed

Commented [BC28]: Is this field also necessary for Collection?

Data Element	Collection M-PA1	Transmission M-PA2	Transmission M-PA3	Disclosure M-PA4	Retention M-PA5	M-PA6
DNSSEC	-	-	-	-	-	-
Name Server IP Address	-	-	-	-	-	-
Last Update of Whois Database	-	-	-	-	-	-
Other Data:						
• Field 1	-	-	-	-	-	-
• Field 2	-	-	-	-	-	-

Commented [BC23]: Can be deleted after confirmed

Commented [BC29]: Is this field also necessary for Collection?

Chain of Custody:

- RAA - <https://www.icann.org/resources/pages/approved-with-specs-2013-09-17-en>
 - 3.8
- RyA - <https://newgtlds.icann.org/sites/default/files/agreements/agreement-approved-31jul17-en.html>
 - Spec 7
- Temp Spec: Sections URS-4.4.12, 5.6, Appx D; UDRP-Appx E