

<p>Small Team #1 Wed 3 October 13.00 – 15.00 UTC</p>	<p>Charter Questions to be addressed:</p> <p>h) Applicability of Data Processing Requirements</p> <p>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?</p> <p>h4) Is there a legal basis for Contracted Parties to treat legal and natural persons differently?</p> <p>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).</p>
<p>EDPB Advice</p>	<p>3. Registration of legal persons</p> <p>In its letter of 10 May 2018, ICANN asks whether the proposed interim compliance model should apply to domain name registrations that include personal data associated with a registration of a legal person.</p> <p>The GDPR does not apply to the processing of personal data which concerns legal persons and in particular undertakings established as legal persons, including the name and the form of the legal person and the contact details of the legal person. While the contact details of a legal person are outside the scope of the GDPR, the contact details concerning natural persons are within the scope of the GDPR, as well as any other information relating to an identified or identifiable natural person.</p> <p>The mere fact that a registrant is a legal person does not necessarily justify unlimited publication of personal data relating to natural persons who work for or represent that organization, such as natural persons who manage administrative or technical issues on behalf of the registrant.</p> <p>For example, the publication of the personal email address of a technical contact person consisting of can reveal information regarding their current employer as well as their role within the organization. Together with the address of the registrant, it may also reveal information about his or her place of work.</p> <p>In light of these considerations, the EDPB considers that personal data identifying individual employees (or third parties) acting on behalf of the registrant should not be made publically available by default in the context of WHOIS. If the registrant provides (or the registrar ensures) generic contact email information (e.g. admin@domain.com), the EDPB does not consider that the publication of such data in the context of WHOIS would be unlawful as such.</p>

Relevant Temporary Specification Sections

Appendix A - Requirements for Processing Personal Data in Public RDDS Where Processing is Subject to the GDPR

2.3. In responses to domain name queries, Registrar and Registry Operator MUST treat the following Registrant fields as "redacted" unless the Registered Name Holder has provided Consent to publish the Registered Name Holder's data:

- Registry Registrant ID
- Registrant Name
- Registrant Street
- Registrant City
- Registrant Postal Code
- Registrant Phone
- Registrant Phone Ext
- Registrant Fax
- Registrant Fax Ext

2.4. In responses to domain name queries, Registrar and Registry Operator MUST treat the following fields as "redacted" unless the contact (e.g., Admin, Tech) has provided Consent to publish the contact's data:

- Registry Admin/Tech/Other ID
- Admin/Tech/Other Name
- Admin/Tech/Other Organization
- Admin/Tech/Other Street
- Admin/Tech/Other City
- Admin/Tech/Other State/Province
- Admin/Tech/Other Postal Code
- Admin/Tech/Other Country
- Admin/Tech/Other Phone
- Admin/Tech/Other Phone Ext
- Admin/Tech/Other Fax
- Admin/Tech/Other Fax Ext

2.5. In responses to domain name queries, in the value of the "Email" field of every contact (e.g., Registrant, Admin, Tech):

	<p>2.5.1. Registrar MUST provide an email address or a web form to facilitate email communication with the relevant contact, but MUST NOT identify the contact email address or the contact itself.</p> <p>2.5.1.1. The email address and the URL to the web form MUST provide functionality to forward communications received to the email address of the applicable contact.</p> <p>2.5.1.2. Registrar MAY implement commercially reasonable safeguards to filter out spam and other form of abusive communications.</p> <p>2.5.1.3. It MUST NOT be feasible to extract or derive the email address of the contact from the email address and the URL to the web form provided to facilitate email communication with the relevant contact.</p> <p>2.5.2. Registry Operator MUST provide a message substantially similar to the following: "Please query the RDDS service of the Registrar of Record identified in this output for information on how to contact the Registrant, Admin, or Tech contact of the queried domain name."</p> <p>(....)</p> <p>3. Additional Provisions Concerning Processing Personal Data in Public RDDS Where Processing is not Subject to the GDPR</p> <p>Registry Operator and Registrar MAY apply the requirements in Section 2 of this Appendix (i) where it has a commercially reasonable purpose to do so, or (ii) where it is not technically feasible to limit application of the requirements as provided in Section 2.1 of this Appendix.</p>
<p>Appendix A Google Doc Input</p>	<p>What changes, if any, need to be made in order to address the EDPB advice?</p> <p>Margie - BC: The new policy should treat legal and natural persons differently.</p> <ol style="list-style-type: none"> 1- As suggested by Benedict- adding a requirement that the Registrant indicate whether it is a legal or natural person. 2- If a legal person - require a notice that it should use role email addresses, and if there is an intent to use a natural person, obtain consent for the use of the personal data 3- all of the contact data of the legal person appears unredacted in the WHOIS data fields <p>Alex - IPC: Agree with input from Margie--BC. Legal person registrants should be able to--and required to-- self-identify and be informed that data privacy protections apply only to natural persons, not legal persons. For contact information for legal persons, they should be informed and encouraged to use non-personal data (e.g. "Administrator" instead of a person's name for e-mail contact). But if they choose to use personal data for such contact information, then they must declare that they have</p>

	obtained the free consent of the relevant individual to use such individual's personal data <u>and</u> to make it publicly available. With the foregoing procedures in place, <u>all</u> registration data of legal person registrants should be required to appear and be unredacted in WHOIS data fields.
Relevant Discussion Summary Index	Appendix A