

**INITIAL REPORT PROPOSED CHANGES FOR DISCUSSION – STATUS 15 NOVEMBER 2018**

The table below provides an overview of the changes proposed by EPDP Team members that staff didn't feel comfortable applying because either the proposed change is not clear, the proposed change affects previously agreed preliminary agreements / text, or is a substantive change that requires further discussion / consideration by the full EPDP Team (see <https://docs.google.com/document/d/1SoNTnvwadNQ8nX - OXN4mtsd-gfLNxT54GXsXyGQwEQ/edit?ts=5be6721f> for all comments received to date). In certain cases, staff has proposed a path forward, but would appreciate EPDP Team/commenter feedback before applying this change. Note that a number of comments were made in relation to preliminary recommendations and/or text that is still under consideration. It is the expectation that this input will be raised in the context of those discussions.

**1. NEW ISSUES**

	Proposed Change	Rationale	Where	By	Why is further consideration by EPDP Team needed before this change is applied?
<b>a1</b>	<p><sup>3</sup> <u>The topic of accuracy is expected to be further considered by the EPDP Team at a later stage of its deliberations</u></p> <p>Delete footnote 3</p>	<p>I thought we had agreed that after agreeing on Preliminary Agreement #3 that <u>new policies on accuracy were out of scope.</u></p>	<p>Footnote 3</p>	<p>NCSG</p>	<p>This addition was made following the review of comments by the EPDP Team during meeting #27.</p>
<b>b1</b>	<p>Proposed addition to Preliminary Recommendation #4 re. data elements to be collected:</p> <p><u>"In Line with the GDPR the EPDP team is considering adding to the data elements a field that requires the registrant to identify whether he/she is a natural or legal person."</u></p>		<p>351 (redline)</p>	<p>ALAC</p>	<p>Isn't this captured as part of the notes in the body of the report as well as question #7? This does not seem to be language that fits with a <u>preliminary recommendation?</u></p>
<b>c1</b>	<p>Insert following:</p>		<p>Line 937-939, page 42 (redline)</p>	<p>NCSG</p>	<p>Statement says 'can damage trust'. Possible way to address concern is to add 'could' to</p>

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	<p><u>In aggregate they cause a systemic risk which does not fall squarely on one party, but instead can damage trust in the whole DNS.</u></p> <p><u>No evidence was provided in support of this claim.</u></p>				<p><u>this sentence so it would read "in aggregate they COULD cause a systemic risk....".</u></p>
<b>d1</b>	<p><u>Delete:</u></p> <p><u>While personal data that concerns legal persons doesn't have the same protections under GDPR</u></p>	<p><u>This is untrue.</u></p> <p><u>See Opinion 4/2007 of the Article 29 Data Protection Working Party, which advised that where information about a legal person or business is "considered as "relating" to a natural person, it should be viewed as personal data, and the data protection rules should apply."</u></p> <p><u>Art 29 WP opinions from the previous directive are still valid.</u></p>	<p><u>Line 1219-1220, page 50</u></p>	<p><u>NCSG</u></p>	<p><u>Proposed rewording to address concerns: "While legal persons do not have the same protections under GDPR,"</u></p>
<b>e2</b>	<p><u>Change:</u></p>	<p><u>Factual</u></p>	<p><u>Line 1234, page 50</u></p>		<p><u>Attributions of this kind are not made in other sections of the report. In order to ensure that</u></p>

	<b>Proposed Change</b>	<b>Rationale</b>	<b>Where</b>	<b>By</b>	<b>Why is further consideration by EPDP Team needed before this change is applied?</b>
	<p><u>Some in the EPDP Team expressed caution</u></p> <p><u>To:</u></p> <p><u>Those in the EPDP Team with expertise in data protection expressed caution</u></p>				<p><u>reader appreciates expertise available in the EPDP Team, reference could be made in the introduction/background section to the wide variety of expertise that exists on the EPDP Team, incl. data protection expertise?</u></p>
<b>f2</b>	<p><b><u>Recommendation 1 -</u></b>  <u>Regarding Purpose 6 under recommendation #1, ICANN org would like to remind the EPDP Team of a comment that ICANN org previously provided on this purpose: “[T]he current wording of Purpose M states: “coordinating the development and implementation of policies concerning ICANN’s dispute resolution processes in the context of domain name registrations.” It is unclear how developing and implementation of policy would involve processing of gTLD registration data or personal data.”</u></p>	<p><u>For further consideration and discussion by the EPDP Team</u></p>	<p><u>Recommendation 5, page 8 of the clean draft of the Initial Report, lines 187-189</u></p>	<p><u>ICANN Org Liaisons</u></p>	<p><u>Possible way to address this comment, update language to read: “coordinating policies concerning ICANN’s dispute resolution processes....” (removing developing and implementation)</u></p>
<b>g2</b>	<p><b><u>Recommendation 5 -</u></b>  <u>Is the transfer referenced in this recommendation for thick registries only? What is the linkage/impact of this recommendation to the Thick policy?</u></p>	<p><u>For further consideration and discussion by the EPDP Team</u></p>	<p><u>Recommendation 6, page 9 of the clean draft of the Initial Report, lines 196-197</u></p>	<p><u>ICANN Org Liaisons</u></p>	
<b>h2.</b>	<p><b><u>Recommendation 6 -</u></b>  <u>Item #3 under this recommendation seems to imply a simple controller/processor relationship. ICANN org would like to inform the EPDP Team that currently, data escrow agreement arrangements are complex. Some</u></p>	<p><u>For further consideration and discussion by the EPDP Team</u></p>	<p><u>Recommendation 6, page 9 of the clean draft of the Initial Report, lines 196-197</u></p>	<p><u>ICANN Org Liaisons</u></p>	

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	<p><u>are 3-way agreements between ICANN, the data escrow provider, and registrars; some are two-way agreements between registrars and data escrow providers. Additionally, some data escrow providers believe that they are controllers, some do not. ICANN org will provide a more fulsome background on the data escrow agreement arrangements to inform future EPDP discussions on this topic.</u></p>				
i2	<p><b>Recommendations 13 and 21 -</b>  <u>There seems to be an overlap/discrepancy with these two recommendations? Recommendation #13 says ICANN should enter into a JCA with contracted parties. Recommendation 21 says ICANN should enter into the required data processing agreement or JCA with contracted parties, data escrow providers and EBERO providers.</u></p> <p><u>NEW: Recommendations 13 and 21 are partially redundant and partially inconsistent. (RySG)</u></p>	<p><u>For further consideration and discussion by the EPDP Team</u></p> <p><u>Seeking clarification from other EPDP Team Members as to how 21 was intended to differ from 13.</u></p>	<p><u>Recommendation 13, page 16 of the clean draft of the Initial Report, lines 318-319.</u></p> <p><u>Recommendation 21, page 22 of the clean draft of the Initial Report, lines 392-395.</u></p>	<p><u>ICANN Org Liaisons</u></p> <p><u>RySG</u></p>	
i2	<p><b>Recommendation 18 -</b>  <u>This recommendation seems to imply a simple controller/processor relationship. It is possible that dispute resolution service providers are themselves controllers.</u></p>	<p><u>For further consideration and discussion by the EPDP Team</u></p>	<p><u>Recommendation 18, page 21 of the clean draft of the Initial Report, lines 367-368.</u></p>	<p><u>ICANN Org Liaisons</u></p>	

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	<a href="#"><u>Additional discussions and analyses may be needed on this topic.</u></a>				
a.	<p><b>EPDP Team Preliminary Rec #5.</b>  <i>The EPDP Team confirms that the specifically-identified data elements under “[t]ransmission of registration data from Registrar to Registry”_within the data elements workbooks must be transferred from registrar to registry. These data elements are: [include list following completion of work on data elements workbooks]</i></p> <p>Further discussion required. Issue with having a requirement for transmitting from registrar to registry to a place not adhering to GDPR.</p>	Not possible to have uniformity if applied geographically.	Rec 5 page 15/16 & Rec 15	RrSG	<p>Not previously discussed.</p> <p>Possible way to address this concern: should similar language be recommended for inclusion in relation to transfer of data from registrar to registry as is currently in place in relation to data transfer to escrow provider under the Temporary Specification:</p> <p><b>International Transfers</b></p> <p>In the course of performing the requirements under the agreement with the Escrow Agent, it may be necessary for the Escrow Agent to Process Personal Data in a country that is not deemed adequate by the European Commission per Article 45(1) of the GDPR. In such a case, the transfer and Processing will be on the basis of adequate safeguards permitted under Chapter V of the GDPR, including the use of Standard Contractual Clauses (2004/915/EC) (or its successor clauses), and the Escrow Agent and Controller MUST comply with such appropriate safeguards.</p>

**2. NOT CLEAR WHAT CHANGES, IF ANY, ARE BEING RECOMMENDED**

	Proposed Change	Rationale	Where	By	Why is further consideration by EPDP Team needed before this change is applied?
f.	<p><b>EPDP Team Preliminary Rec #6.</b></p> <p>1. The EPDP Team recommends updates to the contractual requirements for registries and registrars to transfer data that they process to the data escrow provider to ensure consistency with the data elements workbooks workbook related to the purpose to provide mechanisms for safeguarding Registered Name Holders' Registration Data.</p> <p>2. The specifically-identified data elements the EPDP Team recommends to be transferred are provided within the data elements workbook related to the purpose to provide mechanisms for safeguarding Registered Name Holders' Registration Data (see Annex [include reference]. These data elements are: [list data elements following completion of escrow data elements workbooks].</p> <p>3. The EPDP Team recommends that GDPR-compliant data processing agreements are entered into between ICANN Org and the data escrow providers.</p> <p>This would no longer be applicable if rec 5 is dealt with differently.</p> <p>6.1: Should be cautious of weakening requirements to make data accurate.</p>	<p>Art 25 &amp; data minimization.</p> <p>GDPR is just one data protection regulation.</p>	<p>Rec 6 Page 16</p>	RrSG	<p>Not clear what change, if any, is being recommended.</p>
g.	<p><b>EPDP Team Preliminary Rec #7.</b></p> <p>1. The EPDP Team recommends that updates are made to the contractual requirements for registries and registrars to transfer the</p>	<p>We need to keep focus on the laws</p>	<p>Rec 7 Page 17</p>	RrSG	<p>Not clear what change, if any, is being recommended. RAA already provides for applicable law requirement: "In the event Registrar believes that the provision of any</p>

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	<p><i>domain name registration data that they process to ICANN Compliance when required/requested in line with the data elements workbook related to the purpose to handle contractual compliance monitoring requests, audits, and complaints submitted by Registry Operators, Registrars, Registered Name Holders, and other Internet users (see Annex [include reference]).</i></p> <p><i>2. The specifically-identified data elements the EPDP Team recommends to be transferred are provided within the data elements workbook related to the purpose to handle contractual compliance monitoring requests, audits, and complaints submitted by Registry Operators, Registrars, Registered Name Holders, and other Internet users (see Annex [include reference]). These data elements are: [include following finalization of purpose F data elements workbook].</i></p> <p><b>7.1: These contractual requirements should be subject to applicable law.</b> 7.2 should be narrowed down to the purposes of compliance and limited by applicable law.</p>				such data, information or records to ICANN would violate applicable law or any legal proceedings, ICANN and Registrar agree to discuss in good faith whether appropriate limitations, protections, or alternative solutions can be identified to allow the production of such data, information or records in complete or redacted form, as appropriate”.
<b>h.</b>	<p><b>EPDP Team Preliminary Rec #11.</b> <i>The EPDP Team recommends that Registrars are required to retain the herein-specified data elements for a period of one year</i></p>	Retaining data is tied to business purposes. If you want to tie it to	Rec 11 Page 21	RrSG	Not clear what change, if any, is being recommended. Concerns previously reached compromise. Note that this policy recommendation does not prevent contracted

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	<p><i>following the life of the registration. This retention period conforms to the specific statute of limitations within the Transfer Dispute Resolution Policy (“TDRP). Other relevant parties, including registries, escrow providers and providers and ICANN Compliance, have separate retention periods less than or equal to one year accordingly and in line with the GDPR requirements.</i></p> <p>There should not be a specified time period.</p>	TDRP don't tie to a time. Retention does not only depend on GDPR but also other legislation depending on your country/jurisdiction. (ie up to 10 years for tax purposes.)			parties from having different retention periods for their own purposes resulting from local requirements.
i.	<p><b>Sunsetting WHOIS Contractual Requirements</b></p> <p><i>q1) After migration to RDAP, when can requirements in the Contracts to use WHOIS protocol be eliminated?</i></p> <p><i>q2) If the 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?</i></p> <p>It should be noted that RDAP Profile is specific to the Temp Spec, and additional RDAP Profiles will need to be created in response to EPDP outcomes and/or GNSO policy development</p>	Flagging this for the EPDP Team	1107-1112 Page 36	RrSG	<p>Not clear what change, if any, is being proposed. Please take note of the proposed response in relation to this charter question: [At the time of publication of this Initial Report, the EPDP Team elected to prioritize its policy recommendations with respect to the Temporary Specification. The EPDP Team believes addressing eventual migration to RDAP and sunseting of WHOIS requirements is premature at this time, i.e., before the policy recommendations are finalized.</p> <p>Following receipt of further feedback from the ICANN Community and Data Protection Authorities (if received), the EPDP Team will finalize its recommendations with respect to the Temporary Specification. In the process of this finalization, the EPDP Team will consider</p>



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					<p>drafting implementation guidance regarding the eventual migration to RDAP and consequent sunseting of WHOIS requirements.</p> <p>While the exact date of the possible elimination of WHOIS requirements will be determined in the policy implementation phase, the EPDP Team notes any current WHOIS requirements negated or made redundant by eventual policy recommendations will no longer be required.]</p>

**3. ADDRESSED THROUGH STAFF RESPONSE / PROPOSED APPROACH?**

	Proposed Change	Rationale	Where	By	Why is further consideration by EPDP Team needed before this change is applied?
i.	<p><b>EPDP Team Preliminary Rec #22.</b>  <i>The EPDP Team recommends that ICANN Org should enter into data processing agreements with dispute resolution providers in which, amongst other items, the data retention period is specifically addressed, as this will affect the ability in having publicly-available decisions.</i></p> <p>Not clear why the EPDP team should point this out.</p>	<p>It is always an obligation for ICANN to comply with data protection law. ICANN ORG should already be compliant.</p>	<p>Rec22 Page 35</p>	<p>RrSG</p>	<p>This is a recommendation that came out of the small team M deliberations. Is there any harm in keeping it in here?</p>

**4. EXPECTED TO BE ADDRESSED AS PART OF ONGOING DISCUSSIONS**

	Proposed Change	Rationale	Where	By	Why is further consideration by EPDP Team needed before this change is applied?
p.	<p><b>EPDP Team Preliminary Rec #9.</b>  <i>The EPDP Team recommends that registrars provide further guidance to a Registered Name Holder concerning the information that is to be provided within the Organization field.</i></p> <p>”registrars to provide further guidance...”  Further guidance for what? More context is needed</p>	Will depend on the outcome of the legal vs natural persons discussion	Rec 9 Page 19	RrSG	To be further considered in the context of the data redaction discussion

**5. PROPOSED CHANGES CONCERNING PREVIOUSLY AGREED COMPROMISES – UNLESS ALL AGREE TO REOPEN THESE DISCUSSIONS, THESE ITEMS TO BE CONSIDERED FOLLOWING PUBLICATION OF INITIAL REPORT**

	Proposed Change	Rationale	Where	By	Why is further consideration by EPDP Team needed before this change is applied?
q.	<p>Original language:  <i>Maintaining the security, stability and resiliency of the Domain Name System in accordance with ICANN’s mission through the enabling of lawful access for legitimate third-party interests to data elements collected for other purposes identified herein</i></p> <p>Replace with:  Maintaining lawful disclosure for legitimate 3rd party interest to data elements already collected for purposes identified herein</p> <p><u>add “the”</u>  <u>“for the other purposes identified herein”</u>  <u>(ALAC)</u></p>	Narrow down on purposes	<del>Rec 1.2</del> <del>page 11287</del> <del>(redline)</del>	RrSG  <u>ALAC</u>	This changes the wording of Purpose B which is the result of a previously reached compromise.

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	Proposed Change	Rationale	Where	By	Why is further consideration by EPDP Team needed before this change is applied?
r.	<p>Original language: <i>Enable communication with and/or notification to the Registered Name Holder and/or their delegated agents of technical and/or administrative issues with a Registered Name;</i></p> <p>Replace with: Enable Communications with and/or notification to the RNH, or their designated agent, for issues regarding a Registered Name</p>	<p>Removing non contracted actors and keep focus on designated agent as part of IRTP-C, defined term</p>	<p>Rec 1.3 page 11</p>	<p>RrSG</p>	<p>This changes the wording of Purpose C which is the result of a previously reached compromise.</p>
s.	<p>Original language: <b>EPDP Team Preliminary Rec #2</b> <i>The EPDP Team commits to develop and coordinate policy in the system for standardized access to non-public registration data portion of this EPDP regarding lawful access for legitimate third-party interests regarding abuse or intellectual property to data identified herein that is already collected.</i></p> <p>RrSG prefer the term ‘disclosure’ rather than ‘access’</p> <p>I fear this is not a recommendation that we can even make. it is not in scope for the ePDP to “develop and coordinate” this policy. We should be clear on this. (RySG)</p> <p>It is within the Charter, my comment is that it does not read properly "regarding lawful</p>	<p>Access implies third-parties will be able to see all non-public data. Standard third-party disclosure is a much better term. <u>(RrSG)</u></p> <p><u>There was never a consensus to add this language (quite the opposite), and objections have been noted on the record already. (NCSG)</u></p>	<p>Rec 2 page 11</p>	<p>RrSG RySG IPC <u>NCSG</u> <u>ALAC</u></p>	<p>This changes the wording of a previously reached compromise</p> <p>Possible way to address this concern is to track the language from the charter for this recommendation:</p> <p>Per the EPDP Team Charter, the EPDP Team is committed to considering a system for Standardized Access to non-public Registration Data once the gating questions in the charter have been answered. This will include addressing questions such as:</p> <ul style="list-style-type: none"> <li>• What are the legitimate purposes for third parties to access registration data?</li> <li>• What are the eligibility criteria for access to non-public Registration data?</li> <li>• Do those parties/groups consist of different types of third-party requestors?</li> </ul>

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	<p>access for legitimate third-party interests regarding abuse or intellectual property to data....it should read: "The EPDP Team, as part of the stated scope of its charter, commits to develop and coordinate policy for standardized access to non-public registration data, identified herein and already collected, in relation to legitimate third party interests regarding intellectual property rights or abuse." (IPC)</p> <p><u>Delete "regarding abuse or intellectual property". (NCSG)</u></p> <p><u>Change to: "The EPDP Team commits to develop and coordinate policy for disclosure of non-public registration data to third parties with legitimate interests". (NCSG)</u></p> <p><u>Change: "The EPDP team commits to develop and coordinate policy for standardized access to non-public registration data for lawful third parties legitimate interests with regard to DNS abuse or intellectual property rights"</u></p>				<ul style="list-style-type: none"> <li>What data elements should each user/party have access to?</li> </ul>
t.	<p><b>EPDP Team Preliminary Rec #3.</b>  <i>The EPDP Team recommends that requirements related to the accuracy of registration data under the current ICANN</i></p>		Rec 3 page 12	RrSG	This changes the wording of a previously reached compromise

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	<b>Proposed Change</b>	<b>Rationale</b>	<b>Where</b>	<b>By</b>	<b>Why is further consideration by EPDP Team needed before this change is applied?</b>
	<p><i>contracts and consensus policies shall not be affected by this policy.</i></p> <p>Amend: The EPDP Team recommends that requirements related to the accuracy of registration data under the current ICANN contracts and consensus policies are sufficient and shall not be affected by this policy.</p>				
v.	<p><b>EPDP Team Preliminary Rec #11.</b>  <i>The EPDP Team recommends that Registrars are required to retain the herein-specified data elements for a period of one year following the life of the registration. This retention period conforms to the specific statute of limitations within the Transfer Dispute Resolution Policy (“TDRP”). Other relevant parties, including registries, escrow providers and providers and ICANN Compliance, have separate retention periods less than or equal to one year accordingly and in line with the GDPR requirements.</i></p> <p>Create footnote after (“TDRP”); move “Other relevant parties” sentence into footnote text; and provide examples of the referenced retention periods</p>	The “Other relevant parties” sentence is not a policy recommendation.	636-38	RySG	Concerns proposed change to previously reached compromise
w.	<p><b>EPDP Team Preliminary Rec #16.</b>  <i>The EPDP Team recommends that the current requirements in the Temporary Specification in relation to reasonable access remain in place until work on a system for Standardized Access to Non-Public Registration Data has been</i></p>	The temp spec (as it exists right now) is the “policy” and this new policy will replace that so it’s not	Rec 6 Page 26	RrSG	Concerns proposed change to previously reached compromise

	Proposed Change	Rationale	Where	By	Why is further consideration by EPDP Team needed before this change is applied?
	<p>completed, noting that the term should be modified to refer to “parameters for responding to lawful disclosure requests”. Furthermore, the EPDP Team recommends that criteria around the term “reasonable” are further explored as part of the implementation of these policy recommendations addressing:</p> <ul style="list-style-type: none"> <li>o [Practicable]* timelines criteria for responses to be provided by Contracted Parties;</li> <li>o Format by which requests should be made and responses are provided;</li> <li>o Communication/Instructions around how and where requests should be submitted;</li> <li>o Requirements for what information responses should include (for example, auto-acknowledgement of requests and rationale for rejection of request);</li> <li>o Logging of requests.</li> </ul> <p>[*Some concern expressed that timeliness that should not be translated into requirements that are impractical for contracted parties]</p> <p>This should not be a policy recommendation</p>	<p>appropriate to include tweaks to the temp spec in any report this group issues.</p>			

**Already Addressed**

b.	<p><b>EPDP Team Preliminary Rec #18.</b>  <b>[The EPDP Team recommends that identification of Data Controllers &amp; Processors or other recommendations made in this</b></p>	<p>Very specific contract clause seemingly of the type we are supposed to be</p>	<p><b>Rec #18</b></p>	<p><b>BC</b></p>	<p>To be discussed by EPDP Team</p> <p>EPDP Team Discussion: Does this serve a purpose? Wording may need</p>
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	<p>report will not affect "No Third-Party Beneficiary" clauses in existing ICANN-Contracted Party agreements.]</p> <p>Remove Rec #18</p>	<p>avoiding in this EPDP</p>		<p>to be cleaned up? Consider changing it to a discussion item in the report and highlight the issue. Need to distinguish between recommendations that were discussed in small groups and those that weren't discussed by all. Note actual status of. Frame the issue but not necessarily in the form of a recommendation.</p> <p>Action: staff to remove preliminary recommendation and propose language to capture this issue instead for inclusion in the Initial Report.</p> <p><b>Proposed language for inclusion:</b> Some members of the EPDP Team considered whether the identification of Data Controllers &amp; Processors or other recommendations in this report could have an impact on "No Third-Party Beneficiary" clauses in existing ICANN Contracted Party agreements and whether it should be made clear that this may not be the intention. The EPDP Team expects to consider this issue further.</p>
c.	<p>The EPDP Team also took note of the fact that an existing GNSO PDP WG, namely the Review of All Rights Protection Mechanisms in All gTLDs (RPMs) PDP WG, is currently tasked with reviewing</p>	<p>accuracy</p>	<p>1025-1027</p>	<p>RySG Staff to confirm whether or not this is being factored in. If not, consider recommending to the GNSO Council that the RPM WG is directed to factor in any changes resulting from GDPR</p>

<p><i>the URS and UDRP and is expected to factor in any changes resulting from GDPR requirements.</i></p> <p>Is the statement that the RPMs PDP WG is expected to factor in any changes resulting from GDPR requirements accurate?</p>				<p>requirements in its review of the URS and UDRP.</p> <p>Staff confirmed that the RPM PDP WG is expected to factor in any changes resulting from GDPR requirements, but any guidance from the EPDP Team on issues to specifically consider may assist in this process?</p> <p>EPDP Team discussion: Team to further consider this post Initial Report whether further input can be provided to RPM WG. No changes needed at this point.</p>
<p><b>d.</b> <i>Noting some of the possible legal and technical challenges involved in collecting data from a third party, some (RySG, RrSG, NCSG) expressed the view that registrars should have the option, but should not be contractually required, to offer the RNH the ability to provide additional contact fields, e.g., technical function. Others (BC, IPC, ALAC, GAC) expressed the view that registrars should be required to offer the RNH this ability, as making this optional could ultimately lead to risks to DNS stability, security and resiliency. The stakeholders supporting this view noted this</i></p>	<p>This sentence is not clear and the language application of "collecting data" is too broad and misleading. Should be changed to:</p>	<p>717-725</p>	<p>IPC</p>	<p>Any concerns about this proposed clarification?</p> <p>EPDP Team: original wording makes clear that it should not be a required, while rewording does not capture this. Original language reflects latest state of agreement as this issue was further discussed after LA meeting. Leave original language as is.</p>



<p><b>functionality is considered important and desirable for some RNHs.</b></p> <p>Proposed rewording: "There was concern expressed by RySG, RrSG, NCSG that registrars should be permitted to make certain data fields optional because of the legal and technical challenges in the collection of data from third parties. Other groups, BC, IPC, ALAC and GAC, expressed the view that registrars should be required to offer the RHN the ability to supply data, as making this optional could ultimately result in risk to the stability, security and resiliency of the DNS system. Moreover, supplying the data is often important and desirable for the RNH.</p>				
<p><b>e. The EPDP Team also took note of a related footnote which states, "[if contact details for persons other than the RNH are provided] it should be ensured that the individual concerned is informed". The EPDP Team discussed whether this note implies that it is sufficient for the Registered Name Holder (RNH) to inform the individual it has designated as the technical contact, or whether the</b></p>		<p><b>715-716</b></p>	<p><b>IPC</b></p>	<p><b>EPDP Team to confirm understanding</b></p> <p><b>EPDP Team: are any specific changes being proposed? Leave as is.</b></p>

<p><b>registrar may have the additional legal obligations to obtain consent. The EPDP Team agreed to request further clarification from the EDPB on this point.</b></p> <p>Is this accurate? Did we leave this question open to only getting Board input? Or did we propose to also get legal input on this or additionally agree to add language to provide educational guidance to data subjects/registrants to ensure consent was obtained</p>				
<p>e2. <b>EPDP Preliminary Recommendation #7</b>  <b>The EPDP Team recommends that when designating a gaining registrar or emergency back-end registry operator ("EBERO") to take over for a registrar or registry operator, ICANN shall consider the geographical implications. For example, if the failing registrar/registry is located within the European Economic Area and therefore subject to the GDPR, ICANN shall endeavor to appoint a gaining registrar or EBERO within the</b></p>	<p>Not consensus recommendation (no plenary discussion)</p>	<p>891-96</p>	<p>RySG</p>	<p>Language proposed by staff per the action item following discussion and action item during meeting #22.</p> <p>EPDP Team: leave first sentence as a recommendation or take out whole recommendation. Document the issues discussed instead but not have a recommendation yet. Agreement to delete and no need to document as it is already captured as part of the data elements workbooks.</p>

	EEA, and ICANN shall update its procedures accordingly.				
	Delete recommendation #7				
o.	Staff should identify, for each preliminary recommendation, the EPDP WG meeting in which the recommendation.	RySG members have been unable to map recommendations (as contained in IR) to meetings	All recs	RySG	As per the previous response to the RySG: The majority of the policy recommendations are direct results of the work on the data elements workbooks and aim to reflect those (Preliminary Recommendations #1, #4, #5, #6, #7, #8, #9, #10, #11, #15, #17). Others are: <ul style="list-style-type: none"> <li>• The result of policy recommendations that were agreed to in the context of the discussion on the data elements workbooks (Preliminary recommendation #2, #3),</li> <li>• Small team efforts (Preliminary Recommendations #12, #13, #14, #16),</li> <li>• Suggested during the LA F2F meeting in the context of a small group discussion (#18),</li> <li>• Derived from the discussions on the triage report and input provided in response to the triage survey (Preliminary</li> </ul>

<sup>1</sup> With respect to gaining registrars, ICANN shall update its De-Accredited Registrar Transition Procedure. With respect to EBEROs, ICANN shall update its gTLD Registry Transition processes.

				<p>Recommendations #19, #20, #21, #22, #23, #24, #25),</p> <ul style="list-style-type: none"> <li>Aiming to capture recent discussions (Preliminary Recommendation #26).</li> </ul> <p>Do note that all items in blue in the Initial Report are still under discussion / review. The EPDP Team was asked to flag any other preliminary recommendations that require further discussion by Monday 5 November so that these can be added to the list of outstanding items.</p> <p>Identifying at which meeting exactly all these recommendations were discussed / agreed will take significant staff time. What is the concern that the RySG would like to see addressed? Would it be more productive to focus on which specific recommendations raise concerns so that staff can identify the relevant meeting when this was discussed?</p> <p>See email circulated on 15 November</p>	
j.	The EPDP Team observed that the reference in the Temporary Specification to 'in another mechanism' was unclear. As such, this language should be clarified, possibly by adding 'determined by the EPDP Team' to clarify that the	accuracy	1029-30	RySG	<p>This was raised in the context of the triage survey. Staff clarified that this was what was intended with the original reference to 'another mechanism' in the Temporary Specification.</p> <p>EPDP Team: Delete</p>

<p>EPDP Team may develop or recommend as part of its discussions on a standardized access framework (once the Charter's gating questions have been addressed) another mechanism by which full Registration Data is expected to be made available by the Registry Operator.</p> <p>Is the bulleted text intended to propose an amendment to the Temp Spec? If so, during what meeting was this discussed.</p> <p>Need to identify the actor that will clarify the language (eliminate passive voice)</p>				
<p>k. EPDP Team Preliminary Rec #20, 1042 The EPDP Team recommends that the GNSO Council instructs the review of all RPMs PDP WG to consider, as part of its deliberations, whether there is a need to update existing requirements to clarify that a complainant must only be required to insert the publicly-available RDDS data for the domain name(s) at issue in its initial complaint. The EPDP Team also recommends the GNSO</p>	<p>Not a policy recommendation (RySG)</p> <p>This a process matter and not a content recommendation. (RrSG)</p>	<p>1042-1050 1052-1057</p>	<p>RySG RrSG</p>	<p>Per the PDP Manual, recommendations to the GNSO Council can take many shapes or forms, including requests / advice to the GNSO Council.</p>

<p>Council to instruct the RPMs PDP WG to consider whether upon receiving updated RDDS data (if any), the complainant must be given the opportunity to file an amended complaint containing the updated respondent information.</p> <p>EPDP Team Preliminary Rec #21 The EPDP Team requests that when the EPDP Team commences its deliberations on a standardized access framework, a representative of the RPMs PDP WG shall provide an update on the current status of deliberations so that the EPDP Team may determine if/how the WG's recommendations may affect consideration of the URS and UDRP in the context of the standardized access framework deliberations.</p> <p>Not a policy recommendation (RySG) Rec #21 - It is not necessary to be a recommendation</p>				
<p>m. The EPDP Team noted that as part of the Team's deliberations, no significant issues have been reported in relation to the functioning and operation of the</p>	<p>Correction (BC)</p>	<p>BC RySG</p>	<p>P33</p>	<p>Proposed rewording to address both comments: The EPDP Team noted that as of the Team's deliberations, although some members have reported no significant</p>

<p><b>URS and UDRP following the adoption of the Temporary Specification.</b></p> <p><b>Change: "no significant issues have been reported in relation to the functioning and operation of the URS and UDRP following the adoption of the Temporary Specification" → "although some members have reported no significant issues in the relation of the URS and UDRP following the adoption of the Temporary Specification, others have encountered difficulties, since the UDRP all but requires pre-filing access to domain registrant data (two out of the three UDRP prongs presuppose that complainants are able to identify the registrant of the domain name) which is often unavailable in the absence of an agreed upon standard for "reasonable access". (BC)</b></p> <p><b>Disagree with above because vague and overly broad (RySG)</b></p>				<p>issues in relation to the functioning and operation of the URS and UDRP following the adoption of the Temporary Specification, others reported difficulties as access to domain name registration pre-filing is often unavailable in the absence of an agreed upon standard for "reasonable access".</p>
<p>n. <b>Preliminary Recommendation #24</b>  <b>The EPDP Team recommends that the GNSO Council, as part of its review of the Transfer Policy, specifically requests the review of the implications, as well as</b></p>	<p>Not a policy recommendation</p>	<p>1097-1100</p>	<p>RySG</p>	<p>Per the PDP Manual, recommendations to the GNSO Council can take many shapes or forms, including requests / advice to the GNSO Council.</p>

	<p>adjustments, that may be needed to the Transfer Policy as a result of GDPR.</p> <p>Delete Preliminary Rec. #24 or revise to make a request</p>				
u.	<p>EPDP Team Preliminary Rec #3. The EPDP Team recommends that requirements related to the accuracy of registration data under the current ICANN contracts and consensus policies shall not be affected by this policy.</p> <p>Add: “, unless it is subsequently determined that certain of the purposes described below cannot be properly fulfilled if there is inaccurate information.”</p>	<p>Unresolved parking lot issue</p>	<p>Rec 3 p12 following “...by this policy”</p>	<p>BC</p>	<p>This changes the wording of a previously reached compromise</p> <p>EPDP Team: add clarification that this will be further discussed.</p>