Expedited Policy Development Process on the Temporary Specification for gTLD Registration Data

Initial Report & Public Comment Forum

ICANN

Webinar
29 November 2018

Agenda

1 Welcome & Introduction (EPDP Background & Approach)

2 Initial Report Overview

3 Preliminary Recommendations

4 Questions for Input

5 How to provide input?

6 Q & A

Welcome & Introduction
(EPDP Background & Approach)

What is the mission and scope?

Initiated by GNSO, triggered by ICANN Board's adoption of Temporary Specification

- To confirm, or not, the Temp Spec as Consensus Policy by 25 May 2019
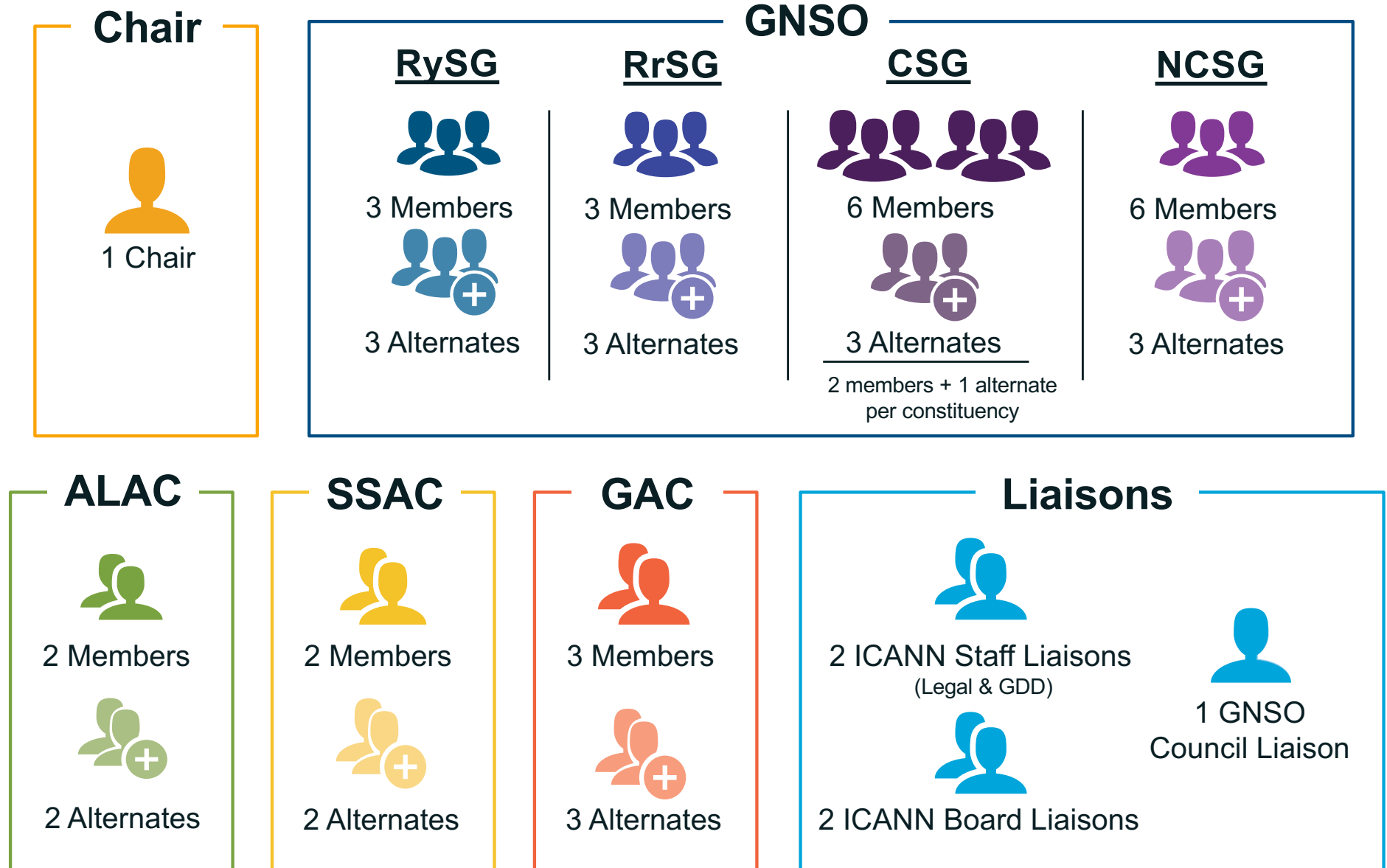- Develop Policy Recs and answer 52 Charter Questions

Discuss a standardized access model to nonpublic registration data
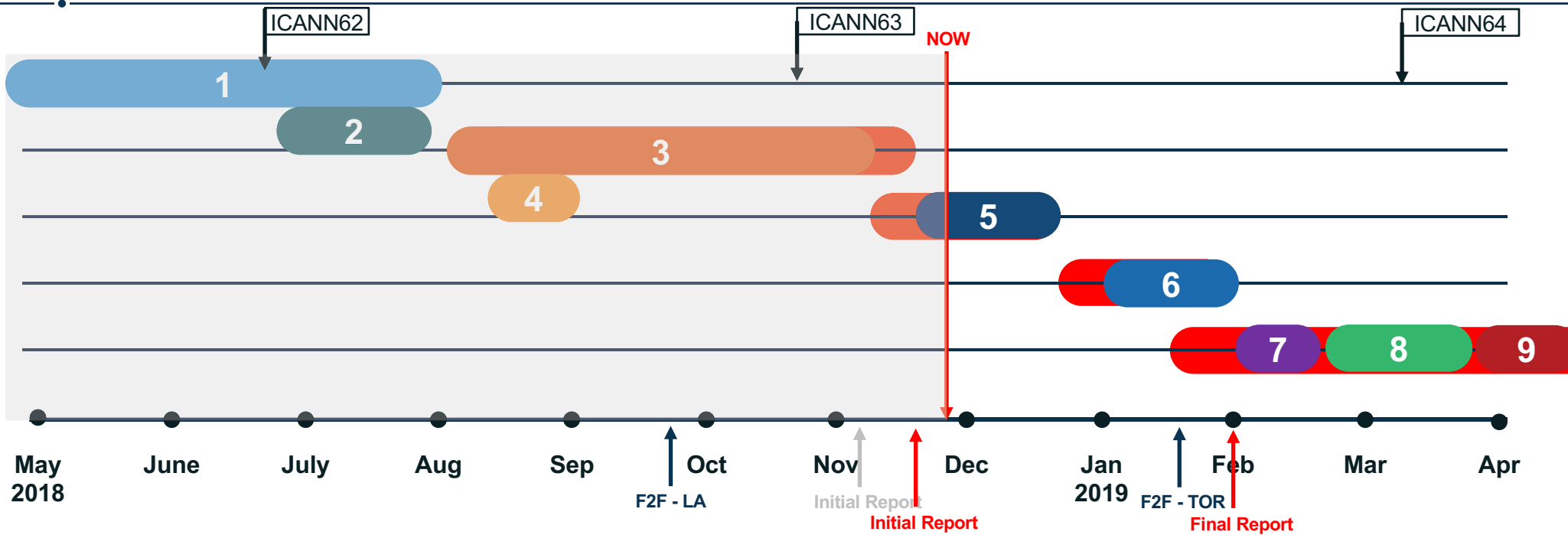- Only after the "gating questions" specified in the EPDP Team's Charter are addressed

Only covers topics in the Temp Spec

EPDP Team Composition

Chair

1 Chair

GNSO

RySG
3 Members
3 Alternates

RrSG
3 Members
3 Alternates

CSG
6 Members
3 Alternates

2 members + 1 alternate per constituency

NCSG
6 Members
3 Alternates

ALAC
2 Members
2 Alternates

SSAC
2 Members
2 Alternates

GAC
3 Members
3 Alternates

Liaisons
2 ICANN Staff Liaisons (Legal & GDD)

2 ICANN Board Liaisons

1 GNSO Council Liaison

EPDP Timeline

27 November 2018
Meeting #30

ICANN62   ICANN63   NOW   ICANN64

1 Prep work, incl. EPDP Initiation Request & Charter adoption	**2** Formation of EPDP Team	**3** EPDP Team Deliberation & Publication of Initial Report(1)
4 Input from SO/ACs & SG/Cs	**5** Public Comment on Initial Report	**6** Review of Public Comment & Submission of Final Report
7 Council consideration of Final Report	**8** Public Comment prior to Board consideration(2)	**9** Board consideration

May 2018 — June — July — Aug — Sep — Oct — Nov — Dec — Jan 2019 — Feb — Mar — Apr

F2F - LA   Initial Report   Initial Report   F2F - TOR   Final Report

66 Days to Final Report   **178** Days to Temp Spec Expiration

(1) Access Model deliberations will begin after gating questions have been completed & will be added to the timeline then.
(2) Exploring option for alternative method for community input while satisfying Bylaws requirement, await response.

| 6

Towards an Initial Report

EPDP Team held 29 fully-attended, multi-hour meetings in the 13 weeks available to it and also held 45+ hours of face-to-face meetings in Barcelona (at the ICANN meeting) and in Los Angeles.

◉ Review of Temporary Specification (Triage Report)

◉ Review and response to each Charter Question, collectively but also with the assistance of small teams to address specific issues

◉ Documenting purposes, each data processing activity, lawful basis, data elements and responsible parties (data elements workbooks)

◉ Prioritizing work to ensure critical issues are addressed for Temporary Specification expiration

Initial Report Overview

Initial Report - Structure

1 Executive Summary

2 Overview of Preliminary Recommendations

3 EPDP Team Approach

4 EPDP Team Responses to charter questions & Preliminary Recommendations

5 Next Steps

Glossary

Annex A, B and C Background, membership & attendance, early input

Annex D Data Elements Workbooks

Preliminary Recommendations

Preliminary Recommendations

◉ 22 Preliminary Recommendations - no formal consensus call taken yet

◉ Differing views are noted with the Initial Report, when applicable.

◉ Address issues such as, what is / are the:
  ○ Purposes for processing gTLD Registration Data
  ○ Data elements required to be processed
    (e.g., collected, transferred from registrar to registry, provided to data escrow providers, provided to ICANN Compliance)
  ○ Redaction of data elements that contain or could be considered personal data
  ○ Data retention period
  ○ Meaning of "Reasonable Access"
  ○ Lawful bases (as described by GDPR) for processing registration data
  ○ Responsible parties (i.e., Joint Data Controllers, Data Controllers, Data Processors)
  ○ Effect of GDPR on existing Consensus Policies / Procedures
    (e.g., URS, UDRP, Transfer Policy)

Topics expected to be further considered

- Appropriateness of a Controller vs. Joint-Controller agreement between ICANN and contracted parties (Prelim. Rec #13)

- If/how to distinguish registrants as legal or natural persons (Q7)

- If/how to differentiate registrants on a geographic basis (Q7)

- Lawful basis for processing data (6(1)b vs 6(1)f) (Prelim. Rec #14)

- Impact on preliminary recommendations on existing policies such as Thick WHOIS

- For data elements that are optional (i.e., Tech contact), should it be optional for a registrar to offer that contact field? (Prelim. Rec #4)

- Data redaction: should the Organization field be redacted (Prelim. Rec # 8 / Q5)

- Should a separate "purpose" be provided for DNS security and stability research? (Q1)

Please refer to Initial Report for full details and positions on these topics.

Questions for Input

Questions for Community Input

- Report also includes 11 questions for Community Input – EPDP Team is looking for focused, well-reasoned input that will facilitate finalization of the report, responses to charter questions and recommendations.

- The EPDP Team is interested in your reasoning and rationale - not just your position. Important to demonstrate GDPR Compliance when changes are proposed.

- Initial Report also includes a number of issues on which no agreement has been reached).

- Specific issues requiring clarification and/or confirmation may be communicated to the European Data Protection Board (EDPB) for feedback to help inform deliberations.

How to provide input?

Public Comment Forum

⊙ A Google Form is used as the format for collecting public comment for this effort.

⊙ This online, web-based format seeks to:
  ○ Link comments to specific sections of the Initial Report,
  ○ Encourage commenters to provide specific reasoning or rationale for their answers.
  ○ Enable the sorting of comments so that the EPDP Team can more easily read all the comments on any topic.

⊙ Commenters will still be able to provide general feedback on the survey and each topic (and not be limited to topic-restricted comments).

⊙ To facilitate offline work, or for those who may not have access to the form, you may download an offline version of the form here: https://gnso.icann.org/en/issues/epdp-gtld-registration-data-specs-public-comment-input-form-21nov18-en.docx.

> *Public comment forum is open for **30 days** – no extension possible.*
>
> *Deadline for input is 21 December 2018*

Public Comment Forum – Important Notes

- ⊙ You may respond to as many or as few questions as desired.

- ⊙ To stop and save your work for later, you MUST FOLLOW THE INSTRUCTIONS PROVIDED.

- ⊙ For transparency purposes, all comments submitted to the Public Comment forum will be displayed publicly via an automatically-generated Google Spreadsheet. Email addresses provided by commenters will not be displayed.

Public Comment Forum – Example

Section 1 of 9

EPDP On the Temporary Specification for gTLD Registration Data - Public Comment Proceeding Input Form

Email address *

Valid email address

This form is collecting email addresses. Change settings

Important Instructions - PLEASE READ BEFORE PROCEEDING

This Public Comment forum seeks community feedback on the Initial Report published by the Expedited Policy Development Process (EPDP) Team on the Temporary Specification for gTLD Registration Data.

Public Comment Forum – Example

Public Comment Forum – Example

Recommendation #11: Data Retention

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").

Choose your level of support of Recommendation #11:

○ Support recommendation as written

○ Support intent of recommendation with edits

○ Intent and wording of this recommendation requires amendment

○ Delete recommendation

If you do not support Recommendation #11, please provide proposed edits here.

Long answer text

Please provide the rationale for your answer.

Q & A

Further Information

Individuals can participate as observers

Observers can:
- Subscribe to the mailing list
- listen to audio-cast and view-only Adobe Connect of all meetings
- be a public consultation respondent

Learn about the EPDP and its work:
https://community.icann.org/x/IYEpBQ (EPDP Team wiki)
https://63.schedule.icann.org/meetings/901519 (EPDP HIT Session at ICANN63)

Get involved:

https://www.icann.org/news/announcement-2018-07-19-en

Annex – Questions for Community Input

Questions for Community Input

1. Are these purposes sufficiently specific and, if not, how do you propose to modify them? Please provide a rationale, keeping in mind compliance with GDPR. Should any purposes be added? If so, please identify the proposed additional purposes and provide a rationale for including them, keeping in mind compliance with GDPR.

2. Are the data elements recommended as required for registrar collection necessary for the purposes identified? If not, why not? Are any data elements missing that are necessary to achieve the purposes identified? If so, please provide the missing data element(s) and a rationale, keeping in mind compliance with the GDPR.

3. Are there other data elements that are required to be transferred between registrars and registries / escrow providers that are necessary to achieve the purposes identified? If so, please provide the relevant rationale, keeping in mind compliance with the GDPR.

4. Are there other data elements that are required to be transferred between registrars and registries / ICANN Compliance that are necessary to achieve the purposes identified? If so, please identify those data elements and provide the relevant rationale, keeping in mind compliance with the GDPR. Are there identified data elements that are not required to be transferred between registrars and registries / ICANN Compliance and are not necessary to achieve the purposes identified? If so, please identify those data elements and explain.

Questions for Community Input

5. Should the EPDP Team consider any changes in the redaction of data   elements? If so, please identify those changes and provide the relevant rationale, keeping in mind compliance with the GDPR.

6. Should the EPDP Team consider any changes to the recommended data retention periods? If so, please identify those changes and provide the relevant rationale, keeping in mind compliance with the GDPR. Do you believe the justification for retaining data beyond the term of the domain name registration is sufficient? Why or why not? Please provide a rationale for your answer.

7. What other factors should the EPDP team consider about whether Contracted Parties should be permitted or required to differentiate between registrants on a geographic basis? Between natural and legal persons? Are there any other risks associated with differentiation of registrant status (as natural or legal person) or geographic location? If so, please identify those factors and/or risks and how they would affect possible recommendations, keeping in mind compliance with the GDPR. Should the community explore whether procedures would be feasible to accurately distinguish on a global scale whether registrants/contracted parties fall within jurisdiction of the GDPR or other data protection laws? Can the community point to existing examples of where such a differentiation is already made and could it apply at a global scale for purposes of registration data?

Questions for Community Input

8. Should the EPDP Team consider any changes to its recommendations in relation to "reasonable access"? If so, please identify the proposed changes and please provide the relevant rationale, keeping in mind compliance with the GDPR.

9. Should the EPDP Team consider any changes to the responsibility designations and/or identified lawful bases? If so, please identify the proposed change(s) and provide the relevant rationale, keeping in mind compliance with the GDPR.

10. Are there any changes that the EPDP Team should consider in relation to the URS and UDRP that have not already been identified? If so, please provide the relevant rationale, keeping in mind compliance with the GDPR.

11. Are there any changes that the EPDP Team should consider in relation to the Transfer Policy that have not already been identified? If so, please provide the relevant rationale, keeping in mind compliance with the GDPR.

Engage with ICANN – Thank You and Questions

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