Topic list – Items remaining to be discussed – updated 1~~1~~2 December 2018

The table below provides an overview of the topics requiring further discussion before publishing of the Final Report. Some of these topics were identified as requiring further discussion in the Initial Report, others were flagged by EPDP Team members / groups. Some of these topics may require closing of the public comment period to be able to assess and factor in community input, for others the EPDP Team could already deliberate and agree on a path forward, which could be reconfirmed after the closing of the public comment period.

Schedule of Meetings going forward:

~~Meeting #30 – 27 November 2018~~
~~Meeting #31 – 4 December 2018~~
~~Meeting #32 – 6 December 2018~~
~~Meeting #33 – 11 December 2018~~
~~Meeting #34 – 13 December 2018~~
Meeting #35 – 18 December 2018
Meeting #36 – 20 December 2018

22 December – 2 January – review of public comments. Consider having small team of volunteers review public comments by section / parts and develop proposed EPDP Team response as well as recommended changes to Initial Report, if deemed appropriate, for EPDP Team consideration?

Meeting #37 – 3 January 2019
Meeting #38 – 8 January 2019
Meeting #39 – 10 January 2019
F2F Meeting – 16 – 18 January 2019

	Topic / Issue (flagged by)	Information needed to address this issue	Where / how currently covered in Initial Report	Discuss during meeting #	Proposed approach for addressing this issue in the Final Report and/or next steps
1.	**Recommendation 1 -** Regarding Purpose 6 under recommendation #1, ICANN org would		Preliminary Recommendation #1 – Purpose 6.	#30	Note that this language was already updated in the Initial Report to read "Coordinate, operationalize, and facilitate

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	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." (ICANN Org Liaisons)				policies for resolution of disputes regarding or relating to the registration of domain names (as opposed to the use of such domain names), namely, the UDRP, URS, PDDRP, RRDRP, and future-developed domain name registration-related dispute procedures for which it is established that the processing of personal data is necessary". As such, no further updates are needed at this stage.
2.	**Recommendation 5 –** *The EPDP Team recommends 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. In the aggregate, these data elements are:* [*see table in report] (Initial Report)* Is the transfer referenced in this recommendation for thick registries only? What is the linkage/impact of this recommendation to the Thick policy? (ICANN Org Liaisons)	Recommendations currently do not differentiate between requirements for thin or thick registries.	Preliminary Recommendation #5	#30	This question as well as the impact of the proposed policy recommendations on other existing policies and procedures has not yet been considered in detail by the EPDP Team. Need to discuss further how to give this due consideration.

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3.	**Recommendation 6 –** *1. The EPDP Team recommends that ICANN Org enter into legally-compliant data processing agreements with the data escrow providers.* *2. 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 that analyze the purpose to provide mechanisms for safeguarding Registered Name Holders' Registration Data.* *3. The data elements workbook that analyzes the purpose to provide mechanisms for safeguarding Registered Name Holders' Registration Data Registration Data contains the specifically-identified data elements the EPDP Team recommends be transferred by Registries and Registrars to data escrow providers (see Annex D). These data elements are:* [see table in report] (Initial Report)	Awaiting a more complete background on the data escrow agreement arrangements" from ICANN Org to inform EPDP discussions.	Preliminary Recommendation #6	#31	Agreement to update "enter into" in the first paragraph to "develop"

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	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 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. (ICANN Org Liaisons)				
4.	**Recommendation 18 –** *The EPDP Team recommends that ICANN Org must 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 to have publicly-available decisions. (Initial Report)* This recommendation seems to imply a simple controller/processor relationship. It is possible that dispute resolution		Preliminary Recommendation #18	#31	Leave as is as reference to "data processing agreements" leaves option open for controller or processor agreement.

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	service providers are themselves controllers. Additional discussions and analyses may be needed on this topic. (ICANN Org Liaisons)				
5.	**Footnote 13/43** - ICANN Org raised a number of implementation related questions (see https://mm.icann.org/pipermail/gnso-epdp-team/2018-November/000961.html) that the EPDP Team will further consider as it prepares its Final Report. (ICANN Org Liaisons)		Footnote 13/43	Small Team	~~To be further considered by s~~Small team met on 10 December – to be further discussed. See https://mm.icann.org/pipermail/gnso-epdp-team/2018-December/001067.html.
6.	*Footnote 4* - *The topic of accuracy as related to GDPR compliance is expected to be considered further, as well as the WHOIS Accuracy Reporting System.* (Initial Report)	What is exactly expected to be considered further and where does this fit within the EPDP Team Charter?	Footnote 4 / 22	#31/#32	Action item: EPDP Team members to indicate the objective of the discussion on Whois data accuracy and how this fits within the Temporary Specification and the EPDP Team Charter. Discussion continuing on the mailing list.
7.	*Recommendation #4: the EPDP Team is still considering whether optional also means optional for the registrar to offer the ability to the Registered Name Holder to provide these data elements, or whether it would be required for the registrar to offer this ability).* (Initial Report)

Also, it should be noted that the optional data is optional for collection, however if | | Preliminary Rec #4 | #33 | Initial discussion during meeting #33 (see https://mm.icann.org/pipermail/gnso-epdp-team/2018-December/001075.html). To be further considered. |

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	it was provided in the first place it is required to be transferred. (ALAC) – confirm that this is a correct assumption				
8.	*Preliminary Recommendation #8 – Whether to redact of Org* (Initial Report)	Input from EDPB / legal advice on liability question	Preliminary Rec #8	TBC	
9.	Lawful Basis – when to apply 6(1)(b) vs. 6(1)(f) (Initial Report)	Input from EDPB / legal advice	Preliminary Rec #14	TBC	
10.	Legal vs. Natural persons (Initial Report)	Community input Input from EDPB /legal advice on liability question	Charter Question h3-h5, page 49-53 (pdf version)	TBC	
11.	Geographic basis (Initial Report)	See EPDB Guideline	Charter Question h1-h2, page 47-49 (pdf version)	#~~33~~34	See discussion meeting #34. EPDP Leadership to draft a new recommendation, noting research should be explored on the feasibility of a rules engine. Following the delivery and outcome of the research, the EPDP Team may recommend further work (perhaps by another PDP WG).
12.	Policy Change Impact Analysis (Initial Report)	Input during public comment period on metrics	Page 71-72 (pdf version)	#~~33~~34	See discussion meeting #34. EPDP Team noted adding proposed metrics at this point would be premature as the recommendations may change following public comment and EPDP Team discussion. Accordingly, ICANN Support Staff will draft general language for inclusion in the Final Report, but note that more specifics are to be determined

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					subsequently (it could also be done through the IRT).
13.	ALAC, BC, and IPC proposed to consider a Purpose for Processing Registration Data to address the needs and benefits provided by DNS security and stability research through publication of reports on threats to the operational stability, reliability, security, global interoperability, resilience, and openness of the DNS. The EPDP Team did not have sufficient time to discuss this proposed Purpose before publication of the Initial Report. The EPDP Team seeks community and ICANN Org input on whether the Purposes agreed upon by the EPDP Team, such as Purpose 2, already encompass this proposed purpose and, if not, whether this proposed purpose should be added (if so, provide a rationale for doing so, keeping in mind compliance with GDPR). (Initial Report)	Input during public comment period	Page 30-31 (pdf version)	#32	See discussion meeting #32. EPDP leadership to has contacted ICANN or to facilitate contact with ICANN to gain their participation in the "Purpose O" discussion regarding processing data for ICANN research purposes.
14.	Data Elements Workbooks Issues: **Purpose 2** • Develop rationale statement on B-PA2 why the transfer of data is not required for this Processing Activity – Page 91 (Current text: "N/A")			#3435	

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	• Should the Footnote 50 be made globally? " Note, the responsible party is not necessarily the party carrying out the processing activity" (See also comment below re. ensuring consistency between data elements workbooks. **Purpose 3** • Develop Responsible Party and Lawful Basis cells for C-PA3 Disclosure of Registration data Processing Activity – Page 96 (Current text: "TBD"; contains footnote "Addressed as part of Purpose B" – consider addressing this before discussion re. what data is transferred to Registry from Registrar) Pu**rpose 6** • Develop Lawful Basis statements for M-PA5-Disclosure and M-PA6-Retention Processing Activities – Page 120 (Current text: "TBD"; Refer to footnotes 68, 69 and also refer to proposed fields for retention as marked on the data elements table. Should we at least document current state as best we can? • Should we include a Processing Activity that specifically identifies the				

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	Disclosure of registration data on an RPM Provider site for resolved disputes of URS and UDRP?
	   o If yes, should the EPDP acknowledge that this disclosure is retained all time?
	• Should we document separate retention requirements for registration data provided to the Provider for processing the complaint versus what is ultimately displayed on complaint once processed and made available on the site?
	
	Purpose 7
	• Processing Activity statements for N-PA5-Disclosure and N-PA6-Retention;
	   o Current text N-PA5 – "TBD or No, but some Registry Operators may elect to publish."
	   o Current text N-PA6 – "TBD or Life of registration."
	   o Depends on input from public comment; NCSG position is that this should not exist as it pertains to being disclosed via RDDS				

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	All • Confirm and make consistent Purpose Rationale statements, especially for #3 and picket fence • Confirm Processing Activity - Retention across Purposes • Apply Generated vs. Collected designations of Data Elements tables				
15.	Privacy/Proxy Services - how the P/P records appear in the public WHOIS (Section 2.6 of the Temp Spec)	From Temp Spec: 2.6. Notwithstanding Sections 2.2, 2.3, 2.4, and 2.5 of this Appendix, in the case of a domain name registration where a privacy/proxy service used (e.g. where data associated with a natural person is masked), Registrar MUST return in response to any query full WHOIS data, including the existing proxy/proxy pseudonymized email.		#354	
16.	Registrant Consent to Publication - option for registrants to request to have all of their RDS data published	From Temp Spec (emphasis added): 2.3. In responses to domain name queries, Registrar and Registry		#354	

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	Proposed Policy: Confirm this requirement Rationale: Registrants such as corporations conducting online business may wish to display their information to ensure that their customers can confirm the authenticity of their website and prevent phishing and other impersonations. Domainers may wish to be easily contactable in order to solicit interest in secondary sales of their domain names. Enabling the consent feature is consistent with the accountability principles laid out in GDPR. GDPR Legal Basis – Article 7 of GDPR	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**			
17.	Consent by the Registrant to Publish and/or Disclose for technical contact Proposed Policy: Confirm this requirement - Rationale: To avoid inadvertently publishing personal data, this option should be available to registrars. GDPR Legal Basis – Article 7 of GDPR	From Temp Spec (emphasis added): 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**		#354	