

# At-Large Workspace: Notice of Preliminary Determination To Grant Registrar Data Retention Waiver Request for Ascio Technologies, Inc. Danmark - filial af Ascio Technologies, Inc. USA

Comment Close Date	Statement Name	Status	Assignee (s)	Call for Comments Open	Call for Comments Close	Vote Open	Vote Close	Date of Submission	Staff Contact and Email	Statement Number
11 Jan 2016	<a href="#">Notice of Preliminary Determination To Grant Registrar Data Retention Waiver Request for Ascio Technologies, Inc. Danmark - filial af Ascio Technologies, Inc. USA</a>	<b>DRAFTING</b> - an ALAC Advice to the Board (not specifically about this public comment)	<a href="#">Alan Greenberg</a>	TBC	TBC	TBC	TBC	TBC	n/a	TBC

For information about this Public Comment, please click [here](#) >>

- [Comments Forum](#)

ICANN has made a preliminary determination that it is prepared to grant a data retention waiver request submitted by Registrar Ascio Technologies, Inc. Danmark – filial af Ascio Technologies, Inc. USA ("Ascio") under the 2013 Registrar Accreditation Agreement (the "2013 RAA"). Section 2 of the Data Retention Specification (the "Specification") of the 2013 RAA provides that prior to granting any exemption under the Specification, ICANN will post its determination on the ICANN website for a period of thirty (30) calendar days.

Pursuant to Section 2 of the Specification, Ascio has submitted to ICANN a Registrar data retention waiver request ("Waiver Request") on the basis of Ascio's contention that compliance with the data collection and/or retention requirements of the Specification violates applicable law in Denmark.

The Waiver Request was accompanied by a written legal opinion from a nationally recognized law firm citing section 5 (5) of the Danish Act on Processing of Personal Data of 31 May 2000 (the "DPPD"). That section provides as follows (the following is an unofficial English translation from Danish):

*Section 5 (5).*

*The data collected may not be kept in a form which makes it possible to identify the data subject for a longer period than is necessary for the purposes for which the data are processed.*

Following receipt of the Waiver Request, and in accordance with the 2013 RAA, ICANN through its legal counsel and Ascio discussed the matter in good faith in an effort to reach a mutually acceptable resolution of the matter.

The outcome of those discussions is that Ascio is seeking a waiver with respect to Sections 1.1.1 through 1.1.8 of the Specification that seeks to reduce from two years to one year the period for which these specified data elements must be retained after the Registrar's sponsorship of the Registration ends.

ICANN has determined on a preliminary basis that it is prepared to grant the Waiver Request. ICANN is posting this preliminary determination for a period of thirty (30) calendar days to seek feedback and input from the community on the proposed data retention waiver. After the thirty (30) calendar day period following this posting has expired, ICANN will consider all feedback and input received before making a final determination on whether to grant the Waiver Request.

The scope of the proposed waiver would be to permit Ascio to maintain the information specified in Sections 1.1.1 through 1.1.8 of the Specification for the duration of its sponsorship of the Registration and for a period of one (1) additional year thereafter rather than two (2) additional years thereafter. In all other respects the terms of the Specification would remain AS-IS.

The specific change to the Specification would be that, for the duration of the Waiver, the retention requirement of Section 1.1 of the Data Retention Specification be changed from "two additional years" to "one additional year."

If ICANN does make a final determination to grant the Waiver Request sought by Ascio, the provisions of Section 3 of the Specification would apply to similar waivers requested by other registrars located in Denmark and subject to Danish law. Section 3 of the Specification provides as follows:

If (i) ICANN has previously waived compliance with the requirements of any requirement of this Data Retention Specification in response to a Waiver Request from a registrar that is located in the same jurisdiction as Registrar and (ii) Registrar is subject to the same applicable law that gave rise to ICANN's agreement to grant such waiver, Registrar may request that ICANN to grant a similar waiver, which request shall be approved by ICANN, unless ICANN provides Registrar with a reasonable justification for not approving such request, in which case Registrar may thereafter make an Waiver Request pursuant to Section 2 of this Data Retention Specification.

The Registrar's Waiver Request and supporting documents are available here: <https://www.icann.org/en/system/files/files/waiver-request-ascio-technologies-09dec15-en.pdf> [PDF, 6.39 MB]

A public comment period will remain open until 23:59 UTC, 11 January 2016. Public comments will be available for consideration by ICANN staff and the ICANN Board.

- Comments can be posted to: [comments-ascio-technologies-09dec15@icann.org](mailto:comments-ascio-technologies-09dec15@icann.org)
- Comments can be viewed at: <http://forum.icann.org/lists/comments-ascio-technologies-09dec15/>

## FINAL VERSION TO BE SUBMITTED IF RATIFIED

*The final version to be submitted, if the draft is ratified, will be placed here by upon completion of the vote.*

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## FINAL DRAFT VERSION TO BE VOTED UPON BY THE ALAC

*The final draft version to be voted upon by the ALAC will be placed here before the vote is to begin.*

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**FIRST DRAFT SUBMITTED**

*The first draft submitted will be placed here before the call for comments begins.*