

GDPR DISCUSSIONS **within ICANN and GAC**

11 SEPTEMBER 2018

NOUMEA

ICANN's dilemma

ICANN's dilemma

Essence: Global ICANN policy VS Regional EU rules

Conflicted parts: WHOIS articles in RA and RAA

Punishment if not compliance with GDPR: Non-compliance with an order by the supervisory authority as referred to in Article 58(2) shall, in accordance with paragraph 2 of this Article, be subject to administrative fines up to 20 000 000 EUR, or in the case of an undertaking, up to 4 % of the total worldwide annual turnover of the preceding financial year, whichever is higher.

The Developments in ICANN

ICANN org move forward to find the solution

Starting from May of 2017, ICANN org move forward to find the solution:

1. volunteer group discussions
2. ICANN engaged the European law firm Hamilton to provide legal analysis regarding GDPR
3. Engaged with Article 29 and DPAs for communications
4. Gathering public comments for GDPR compliance proposal

The Developments in ICANN

Interim Proposal (12 January 2018)

| Registrant | ICANN Model 1 | | ICANN Model 2 | ICANN Model 3 | | |
|------------------------|---------------------------|------------------|---------------------------|---------------------------|---|---|
| | Natural person | Legal person | Legal and Natural persons | Legal and natural persons | | |
| Domain Name | Display | Display | Display | Display | | |
| Registry Domain ID | ICANN Model 1 | | ICANN Model 2 | ICANN Model 3 | | |
| Registrar WHOIS Ser | ICANN Model 1 | | ICANN Model 2 | ICANN Model 3 | | |
| Registrar URL | Registrant | Natural person | Legal person | Legal and Natural persons | Legal and natural persons | |
| Updated Date | Registrant City | Display | Display | Do not display | Display unless field includes personal data | |
| Creation Date | Registrant State/Province | Display | Display | Do not display | Display unless field includes personal data | |
| Registry Expiry Data | Registrant Postal Code | ICANN Model 1 | | ICANN Model 2 | ICANN Model 3 | |
| Registrar Registratio | Registrant Country | ICANN Model 1 | | ICANN Model 2 | ICANN Model 3 | |
| Expiration Date | Registrant Phone | Registrant | Natural person | Legal person | Legal and natural persons | |
| Registrar | Registrant Phone Ext | Tech Postal Code | Do not display | Display | Do not display | Display unless field includes personal data |
| Registrar IANA ID | Registrant Fax | Tech Country | Do not display | Display | Do not display | Display unless field includes personal data |
| Registrar Abuse Con | Registrant Fax Ext | Tech Phone | Display | Display | Do not display | Display unless field includes personal data |
| Registrar Abuse Con | Registrant Email | Tech Phone Ext | Display | Display | Do not display | Display unless field includes personal data |
| Phone | Admin Name | Tech Fax | Display | Display | Do not display | Display unless field includes personal data |
| Reseller | Admin Organization | Tech Fax Ext | Display | Display | Do not display | Display unless field includes personal data |
| Domain Status | Admin Street | Tech Email | Display | Display | Display | Display unless field includes personal data |
| Domain Status | Admin City | Name Server | Display | Display | Display | Display |
| Domain Status | Admin State/Province | Name Server | Display | Display | Display | Display |
| Registry Registrant II | Admin Postal Code | DNSSEC | Display | Display | Display | Display |
| Registrant Name | Admin Country | DNSSEC | Display | Display | Display | Display |
| Registrar Organizat | Admin Phone | | Display | Display | Do not display | Display unless field includes personal data |
| Registrar Street | Admin Phone Ext | | Display | Display | Do not display | Display unless field includes personal data |
| | Admin Fax | | Display | Display | Do not display | Display unless field includes personal data |
| | Admin Fax Ext | | Display | Display | Do not display | Display unless field includes personal data |
| | Admin Email | | Display | Display | Display | Display unless field includes personal data |
| | Tech Name | | Do not display | Display | Do not display | Display unless field includes personal data |
| | Tech Organization | | Do not display | Display | Do not display | Display unless field includes personal data |
| | Tech Street | | Do not display | Display | Do not display | Display unless field includes personal data |
| | Tech City | | Do not display | Display | Do not display | Display unless field includes personal data |
| | Tech State/Province | | Do not display | Display | Do not display | Display unless field includes personal data |

The Developments in ICANN

"the cookbook" (8 March 2018)

Sample of Minimum WHOIS Output suggested in the Cookbook

| WHOIS Data Fields | ICANN Interim Compliance Model Legal and Natural persons |
|--|---|
| Admin Postal Code | Do not display |
| Admin Country | Do not display |
| Admin Phone | Do not display |
| Admin Phone Ext | Do not display |
| Admin Fax | Do not display |
| Admin Fax Ext | Do not display |
| Admin Email | Anonymized email or web form |
| Registry Tech ID | Do not display |
| Tech Name | Do not display |
| Tech Organization | Do not display |
| Tech Street | Do not display |
| Tech City | Do not display |
| Tech State/Province | Do not display |
| Tech Postal Code | Do not display |
| Tech Country | Do not display |
| Tech Phone | Do not display |
| Tech Phone Ext | Do not display |
| Tech Fax | Do not display |
| Tech Fax Ext | Do not display |
| Tech Email | Anonymized email or web form |
| Name Server | Display |
| Name Server | Display |
| DNSSEC | Display |
| DNSSEC | Display |
| URL of ICANN Whois Inaccuracy Complaint Form | Display |
| >>> Last update of WHOIS database | Display |

| WHOIS Data Fields | ICANN Interim Compliance Model Legal and Natural persons |
|--|---|
| Domain Name | Display |
| Registry Domain ID | Display |
| Registrar WHOIS Server | Display |
| Registrar URL | Display |
| Updated Date | Display |
| Creation Date | Display |
| Registry Expiry Date | Display |
| Registrar Registration Expiration Date | Display |
| Registrar | Display |
| Registrar IANA ID | Display |
| Registrar Abuse Contact Email | Display |
| Registrar Abuse Contact Phone | Display |
| Reseller | Display |
| Domain Status | Display |
| Domain Status | Display |
| Domain Status | Display |
| Registry Registrant ID | Do not display |
| Registrant Name | Do not display |
| Registrant Organization | Display |
| Registrant Street | Do not display |
| Registrant City | Do not display |
| Registrant State/Province | Display |
| Registrant Postal Code | Do not display |
| Registrant Country | Display |
| Registrant Phone | Do not display |
| Registrant Phone Ext | Do not display |
| Registrant Fax | Do not display |
| Registrant Fax Ext | Do not display |
| Registrant Email | Anonymized email or web form |
| Registry Admin ID | Do not display |
| Admin Name | Do not display |
| Admin Organization | Do not display |
| Admin Street | Do not display |
| Admin City | Do not display |
| Admin State/Province | Do not display |

The Developments in ICANN

TEMP SPEC(25 May 2018)


- *Temporary Specification: In place from 25 May 2018 for 12 months*
- *Temporary Specification for gTLD Registration Data (Temporary Specification) establishes temporary requirements to allow ICANN and gTLD registry operators and registrars to continue to comply with existing ICANN contractual requirements and community-developed policies in light of the GDPR.*
- *Temp Spec renewal every 90 days*

The Developments in ICANN

Initiation of EPDP(19 July 2018)

the Generic Names Supporting Organization (GNSO) Council initiated the Expedited Policy Development Process (EPDP) on the Temporary Specification for gTLD Registration Data.

GNSO process but with participation from other AC/SO.




Launched:

Expedited Policy Development Process on
Temporary Specification for gTLD Registration Data

Get involved!

Mailing List Transcripts Audio Streams



The graphic features a teal background. In the top left corner, there is a stylized rocket ship icon. The word "Launched:" is written in white text inside an orange rectangular box. Below this, the title "Expedited Policy Development Process on Temporary Specification for gTLD Registration Data" is written in white. The phrase "Get involved!" is written in large, bold, white text. Underneath, three circular icons represent "Mailing List" (a laptop), "Transcripts" (a document), and "Audio Streams" (a telephone handset). To the right, an illustration shows three stylized human figures standing on a horizontal line, with a lightbulb above them connected by dashed lines, representing a collaborative idea.

The positions of each group

The positions of each group in ICANN

Rough Consensus: compliance with GDPR

ICANN Org: proposal from community, recognition by gov(EU)

ICANN board: proposal from community, recognition by gov(EU), call on GAC rep. engagement with their DPAs

Contracted parities (registry and registrar) : ICANN org or ICANN Board should find a way to solve the problem; ICANN not punishment on violation of RA and RAA in relation to GDPR compliance

IP protection community: continue to access to WHOIS for IP protection

GAC and GAC members: GAC rep. as liaison to DPAs but not in position to approve ICANN compliance proposal , maintain the current WHOIS structure, continue to access to WHOIS with legitimate purpose(BEFORE 25 MAY)

GAC discussion around GDPR

Abu Dhabi communiqué (Nov 2017)

San Juan Communiqué (Mar 2018)

Panama Communiqué (June 2018)

GAC discussion around GDPR

General Positions of the GAC

The GAC highlights the importance of complying with the European General Data Protection Regulation (GDPR), encourages ICANN to continue its efforts to ensure full and timely compliance with GDPR while involving the multi-stakeholder community and European data protection authorities.
ICANN应当遵循GDPR规定

to maintain, to the greatest extent possible, the current structure of the WHOIS.
现有WHOIS的架构不能变 (该采集的数据继续采集)

The GAC does not envision an operational role in designing and implementing the proposed accreditation programs but reiterates its willingness to advise the Board and engage with ICANN Org and the community on the development of codes of conduct from a public policy perspective.
无意承担“许可”和“实名制”责任，但从公共政策角度提建议

The GAC notes the opportunity for individual governments, if they wish to do so, to provide information to ICANN on governmental users to ensure continued access to WHOIS.
一些政府仍然需要获取WHOIS信息，一些政府担心出现不能获取WHOIS的时间段

GAC discussion around GDPR

GAC EPDP Small Group

GAC EPDP Small Group in place: US, IRAN, INDIA, UK...

- GAC Small Group activities
 - Formal GAC Early Input into EPDP published (7 September)
 - Small Group reviewing other Early Input provided by SSAC, NCSG, ALAC, BC, IPC, RySG

Thank you for listening!
谢谢聆听！

