

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

High Interest Topic Session



ICANN63
22 October 2018

Agenda

1

Welcome &
Introduction (EPDP
Background &
Approach)

2

Purposes for
Processing
Registration Data

3

Required Data
Processing Activities

4

Other
recommendations &
issues

5

Expected next steps
in relation to
publication of
Initial Report

6

Annex: Data Processing
Terms & Updates to other
Consensus Policies
(UDRP, URS, Transfers)

Followed by Q & A

Welcome & Introduction (EPDP Background & Approach)

What is the mission and scope?



Initiated by GNSO,
triggered by ICANN
Board's adoption of
Temp Spec



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



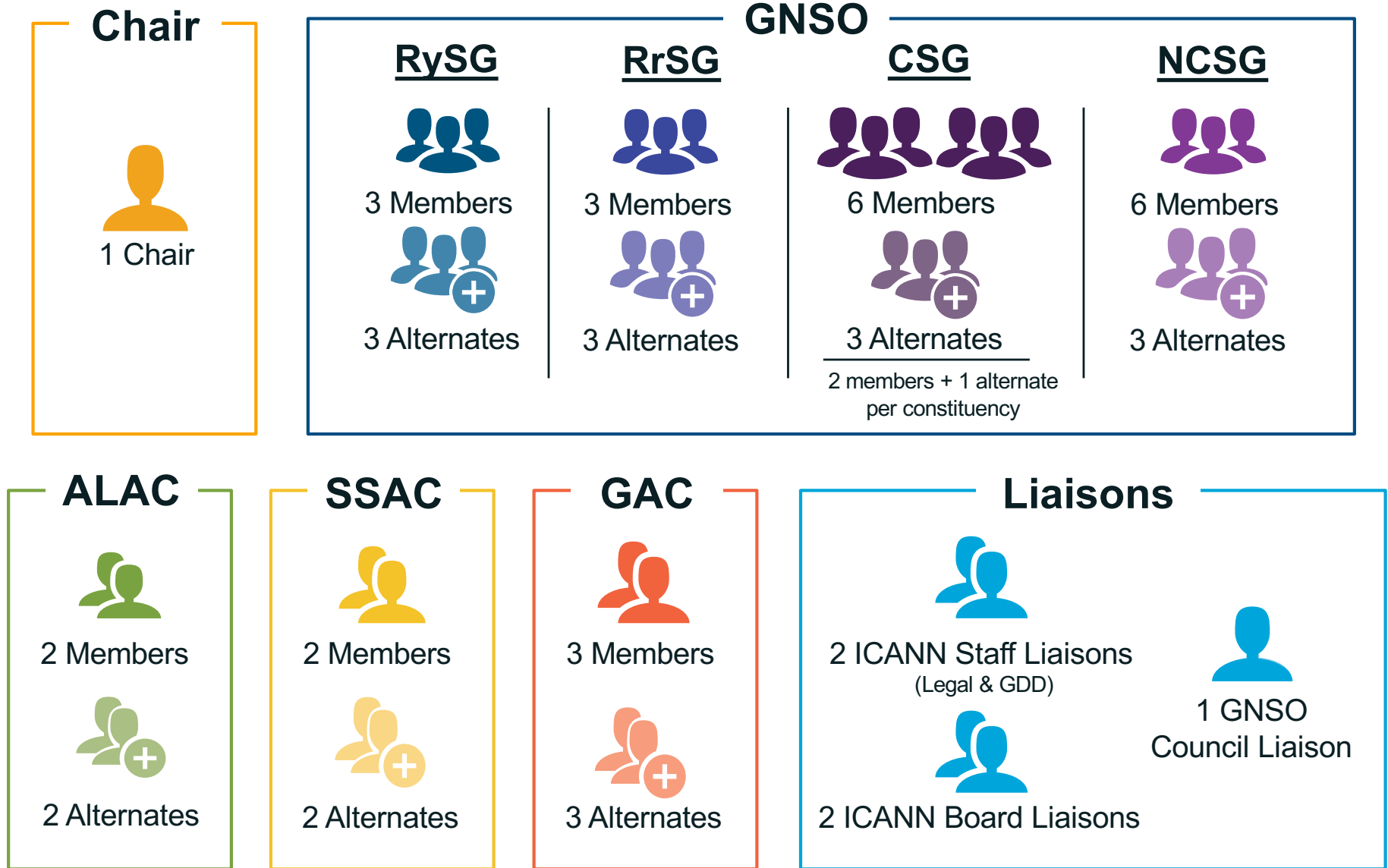
Discuss a standardized access model to nonpublic registration data

- Only after the “gating questions” specified in the [EPDP Team's Charter](#) are addressed



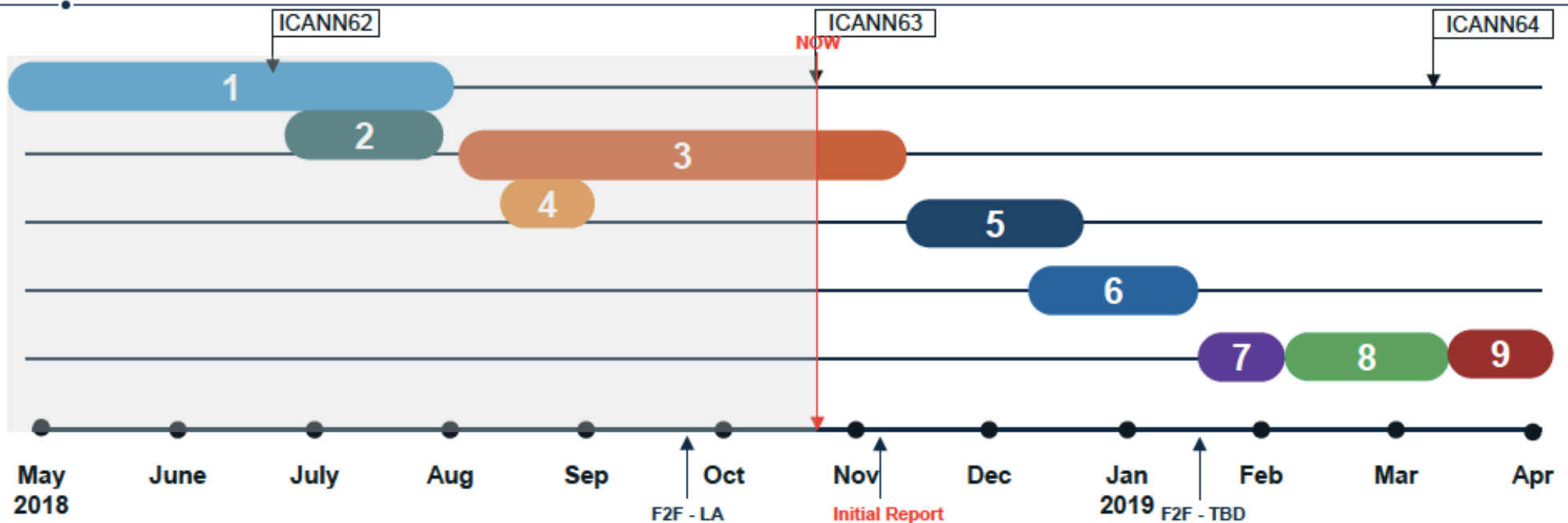
Only covers topics in the
Temp Spec

EPDP Team Composition



EPDP Timeline

20 October 2018
ICANN 63



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

16 Days to Initial Report

216 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.

First deliverable: Triage

- ⦿ First deliverable, Triage of Temporary Specification, provided valuable insights into key areas of disagreement (but also agreement) through series of surveys
- ⦿ Formed the basis for planning further deliberations focused on answering the charter questions by considering EDPB advice as well as ensuring GDPR Compliance

Tools & methods

- ⦿ Various tools developed to ensure focused approach which is to result in addressing EPDP Charter Questions and developing preliminary recommendations for Initial Report:
 - Data Elements Matrix
 - Data Elements Workbooks that are designed to answer the charter questions in a rigorous, methodical way
 - Data processing maps
 - Essentially a DPIA
- ⦿ All aspects now coming together in Data Elements Workbooks (see next slide)

Drilling for Data Elements



Define the ICANN purpose

Principles:

- Clear & specific, avoid being over broad
- Well defined to ease the connection of processing activities to data elements
- Appropriate rationale understanding Mission/Bylaws, contractual arrangement and picket fence, mission

Define the Processing Activities

Processing Activity:

- Collection
- Transmission
- Disclosure
- Retention

Responsible Party/Role:

- ICANN, Registry, Registrar
- Controller, Processor

Lawful Basis:

- Is the processing necessary to achieve the purpose?
- 6.1(b), 6.1(f), 6.1(a)

Inventory Data Elements

- Data Element Map
- Data Field Matrix
- Required
- Optional
- Not Required
- Consolidated



Data Element	Collection	Transmission	Disclosure	Retention	Deletion
Account Name	Y	Y	Y	Y	Y
Account Password	Y	Y	Y	Y	Y
Account ID	Y	Y	Y	Y	Y
Account Type	Y	Y	Y	Y	Y
Account Status	Y	Y	Y	Y	Y
Account Creation Date	Y	Y	Y	Y	Y
Account Expiration Date	Y	Y	Y	Y	Y
Account Last Login	Y	Y	Y	Y	Y
Account Last Password Change	Y	Y	Y	Y	Y
Account Last IP Address	Y	Y	Y	Y	Y
Account Last Location	Y	Y	Y	Y	Y
Account Last Device	Y	Y	Y	Y	Y
Account Last Browser	Y	Y	Y	Y	Y
Account Last OS	Y	Y	Y	Y	Y
Account Last Screen Resolution	Y	Y	Y	Y	Y
Account Last Language	Y	Y	Y	Y	Y
Account Last Timezone	Y	Y	Y	Y	Y
Account Last Country	Y	Y	Y	Y	Y
Account Last City	Y	Y	Y	Y	Y
Account Last State	Y	Y	Y	Y	Y
Account Last Zip	Y	Y	Y	Y	Y
Account Last Country Code	Y	Y	Y	Y	Y
Account Last City Code	Y	Y	Y	Y	Y
Account Last State Code	Y	Y	Y	Y	Y
Account Last Zip Code	Y	Y	Y	Y	Y
Account Last Country Name	Y	Y	Y	Y	Y
Account Last City Name	Y	Y	Y	Y	Y
Account Last State Name	Y	Y	Y	Y	Y
Account Last Zip Name	Y	Y	Y	Y	Y
Account Last Country Name Code	Y	Y	Y	Y	Y
Account Last City Name Code	Y	Y	Y	Y	Y
Account Last State Name Code	Y	Y	Y	Y	Y
Account Last Zip Name Code	Y	Y	Y	Y	Y
Account Last Country Name Code Name	Y	Y	Y	Y	Y
Account Last City Name Code Name	Y	Y	Y	Y	Y
Account Last State Name Code Name	Y	Y	Y	Y	Y
Account Last Zip Name Code Name	Y	Y	Y	Y	Y
Account Last Country Name Code Name Code	Y	Y	Y	Y	Y
Account Last City Name Code Name Code	Y	Y	Y	Y	Y
Account Last State Name Code Name Code	Y	Y	Y	Y	Y
Account Last Zip Name Code Name Code	Y	Y	Y	Y	Y
Account Last Country Name Code Name Code Name	Y	Y	Y	Y	Y
Account Last City Name Code Name Code Name	Y	Y	Y	Y	Y
Account Last State Name Code Name Code Name	Y	Y	Y	Y	Y
Account Last Zip Name Code Name Code Name	Y	Y	Y	Y	Y

Account Name	Account Password	Account ID	Account Type	Account Status	Account Creation Date	Account Expiration Date	Account Last Login	Account Last Password Change	Account Last IP Address	Account Last Location	Account Last Device	Account Last Browser	Account Last OS	Account Last Screen Resolution	Account Last Language	Account Last Timezone	Account Last Country	Account Last City	Account Last State	Account Last Zip	Account Last Country Code	Account Last City Code	Account Last State Code	Account Last Zip Code	Account Last Country Name	Account Last City Name	Account Last State Name	Account Last Zip Name	Account Last Country Name Code	Account Last City Name Code	Account Last State Name Code	Account Last Zip Name Code	Account Last Country Name Code Name	Account Last City Name Code Name	Account Last State Name Code Name	Account Last Zip Name Code Name	Account Last Country Name Code Name Code	Account Last City Name Code Name Code	Account Last State Name Code Name Code	Account Last Zip Name Code Name Code
Account Name	Account Password	Account ID	Account Type	Account Status	Account Creation Date	Account Expiration Date	Account Last Login	Account Last Password Change	Account Last IP Address	Account Last Location	Account Last Device	Account Last Browser	Account Last OS	Account Last Screen Resolution	Account Last Language	Account Last Timezone	Account Last Country	Account Last City	Account Last State	Account Last Zip	Account Last Country Code	Account Last City Code	Account Last State Code	Account Last Zip Code	Account Last Country Name	Account Last City Name	Account Last State Name	Account Last Zip Name	Account Last Country Name Code	Account Last City Name Code	Account Last State Name Code	Account Last Zip Name Code	Account Last Country Name Code Name	Account Last City Name Code Name	Account Last State Name Code Name	Account Last Zip Name Code Name	Account Last Country Name Code Name Code	Account Last City Name Code Name Code	Account Last State Name Code Name Code	Account Last Zip Name Code Name Code



Towards an Initial Report

Initial report - Objectives:

- ⊙ Answer charter questions & include related Policy Recommendations
- ⊙ Confirm / amend Temporary Specification

Do that using:

- ⊙ Workbooks
- ⊙ Small teams to address specific issues, e.g.,
 - Distinction between legal and natural persons
 - Geographic consideration
- ⊙ Prioritizing work to ensure critical issues are addressed for Temporary Specification expiration
- ⊙ Specific issues requiring clarification and/or confirmation to be communicated to the EDPB for feedback.

Preliminary recommendations shared in this presentation are best current thinking and may differ from what is ultimately agreed to be included in the Initial Report by the EPDP Team

Purposes for Processing Data

Purposes

Charter Questions

- Are the purposes in Temporary Specification valid and legitimate?
- Do those purposes have a corresponding legal basis?
- Should any of the purposes be eliminated or adjusted
- Should any purposes be added?

EPDP Team Approach

- Reviewed Temporary Specification Purposes
- Factored in GDPR requirements and EDPB Advice
- Developed new / revised purposes and identified corresponding legal basis

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Proposed Purposes (abbreviated versions)

A

Establish rights of Registered Name Holder

F

Handling contractual compliance

B

Enabling lawful access for legitimate third-party interests.

M

Implement ICANN dispute resolution policies (e.g. URS, UDRP)

C

Enable communication or notification to the Registered Name Holder

N

Validation of Registered Name Holder gTLD registration policy eligibility criteria.

E

Safeguarding Registered Name Holders' Registration (Escrow)

(O)

(Research)

Lawful Basis - as defined in GDPR

Each Purpose for processing personal data and each data processing step (e.g., collection, use, disclosure) requires a GDPR legal basis. The EPDP team considered these for each data processing step:

- ◉ *Art. 6.1(a): Consent - the data subject has given consent to the processing of his or her personal data for one or more specific purposes.*
- ◉ *Art. 6.1(b): processing is necessary for the performance of a contract to which the data subject is party or in order to take steps at the request of the data subject prior to entering into a contract.*
- ◉ *Art. 6.1(f): processing is necessary for the purposes of the legitimate interests pursued by the controller or by a third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the data subject which require protection of personal data, in particular where the data subject is a child.*

The EPDP team is making preliminary determinations as to what legal bases apply and intends to verify those selections with Data Privacy Authorities.

Required Data Processing Activities

Data Processing Activities

Data Processing Steps

- **Collection** by registrar
- **Transfer** from:
 - registrar to registry
 - registrar/registry to data escrow provider
 - registrar/registry to ICANN
 - registry to EBERO
- **Publication** by registry/registrar
- **Data Retention**
- Applicability of Data Processing Requirements

EPDP Team Approach

- For each purpose the EPDP Team has determined the related processing activities (including transfer and data retention), lawful basis and data elements required
- The EPDP Team has identified the desired retention period as well as rationale
- EPDP Team is considering whether any changes need to be made to the redaction requirements in the Temporary Specification

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Other recommendations & issues

Other recommendations & Issues

Charter Questions

- Should Contracted Parties (Registries and Registrars) be permitted or required to differentiate between registrants on a **geographic basis**?
- Should Contracted Parties be allowed or required to treat **legal and natural persons** differently, and what mechanism is needed to ensure reliable determination of status?
- Should existing requirements in Temp Spec in relation to **reasonable access** remain in place until a model for access is finalized?

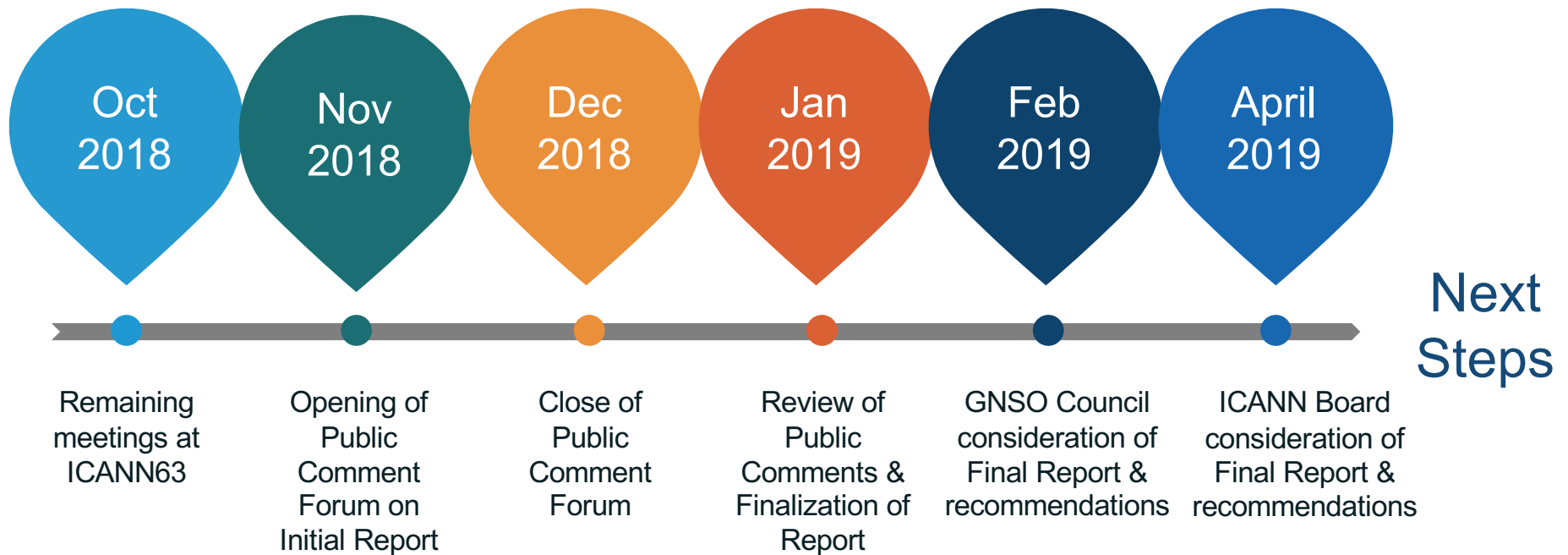
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EPDP Team Approach

- Small teams deliberated on these issues
- At this time, no agreement reached yet although EPDP Team is considering that differentiation on geographic basis as well between legal / natural persons may be helpful, although additional work may be needed.
- Similarly, EPDP Team is considering recommending that Temp Spec requirements for reasonable access remain in place but that criteria around the term “reasonable” are further explored.

Expected next steps in relation to publication of Initial Report

Next Steps



To Summarize

Significant work is remaining in fairly limited time. The public comment forum will be open for the minimum period required, but it will not be possible to extend beyond that. By 25 May 2019 new policy recommendations need to be adopted by the ICANN Board as on that date the Temporary Specification for gTLD Registration will expire and cannot be further renewed in that format.

Q & A

Any clarifying questions for the
EPDP Team?

Any suggestions and/or
recommendations?

*Note, there is also a Cross-Community GDPR
Session on Wednesday 24 Oct from 9.45 – 12.00*

Data Processing Terms

Data Processing Terms

Charter Questions

- ICANN's responsibilities in processing data
- Registrar's responsibilities in processing data
- Registry's responsibilities in processing data

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EPDP Team Approach

- Through its work on the data elements workbooks, the EPDP Team has identified the following for each of the purposes: (1) responsible party/parties, and (2) which party/parties is/are involved in the relevant processing steps.
- Preliminary Recommendation: The EPDP Team recommends that ICANN Org enters into the required data protection agreements such as a Data Processing Agreement (GDPR Art. 28) or Joint Controller Agreement (Art. 26), as appropriate, with other entities involved in registration data processing. These agreements are expected to set out the relationship obligations and instructions for data processing between the different parties.

Updates to other Consensus Policies (UDRP, URS, Transfers)

Updates to other consensus policies

Charter Questions

- UDRP, URS, Transfers – should Temporary Specification language be confirmed, or are additional adjustments needed?
- Sunsetting WHOIS Contractual Requirements

EPDP Team Approach

Preliminary recommendations:

- Requirements of the Temporary Specification are maintained for URS and UDRP until such time as these are superseded by recommendations that may come out of the RPMs PDP WG.
- ICANN Org should enter into data processing agreements with dispute resolution providers
- The requirements of the Temp Spec are maintained for the Transfer Policy until such time these are superseded by recommendations that may come out of the Transfer Policy review which should factor in GDPR Compliance

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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>



Get involved:

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

Engage with ICANN – Thank You and Questions



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