Orange boxes denote gating questions. These questions need to be answered before work can start on the System for Standardized Access to Non-Public Registration Data (the questions related to that area are not covered in this mind map. Similarly, for the Important Issues for Further Community Action.

Terms of the Temporary Specification

Part 1: Purposes for Processing Registration Data [OVERVIEW OF PURPOSES TABLE / DSI 4.4, 4.5]

a) Purposes outlined in Sec. 4.4.1-4.4.13 of the Temporary Specification
- a1) Are the purposes enumerated in the Temporary Specification valid and legitimate?
- a2) Do those purposes have a corresponding legal basis?
- a3) Should any of the purposes be eliminated or adjusted?
- a4) Should any purposes be added?

Part 2: Required Data Processing Activities [DATA ELEMENTS MATRIX / APPENDIX A GOOGLE DOC / DSIs 5, 6, 7, Appendix C]

b) Collection of registration data by registrar
- b1) What data should registrars be required to collect for each of the following contacts: Registrant, Tech, Admin, Billing?
- b2) What data is collected because it is necessary to deliver the service of fulfilling a domain registration, versus other legitimate purpose as outlined in part (A) above?
- b3) How shall legitimacy of collecting data be defined (at least for personal data collected from European registrants and others in jurisdictions with data protection law)?
- b4) Under the purposes identified in Section A, is there legal justification for collection of these data elements, or a legal reason why registrars should not continue to collect all data elements for each contact

c) Transfer of data from registrar to registry
- c1) What data should registrars be required to transfer to the registry?
- c2) What data is required to fulfill the purpose of a registry registering and resolving a domain name?
- c3) What data is transferred to the registry because it is necessary to deliver the service of fulfilling a domain registration versus other legitimate purposes as outlined in part (a) above?
- c4) Is there a legal reason why registrars should not be required to transfer data to the registries, in accordance with previous consensus policy on this point?
- c5) Should registries have the option to require contact data or not?
- c6) Is there a valid purpose for the registrant contact data to be transferred to the registry, or should it continue to reside at the registrar?

d) Transfer of data from registrar/ registry to data escrow provider
- d1) Should there be any changes made to the policy requiring registries and registrars to transfer the data that they process to the data escrow provider?
- d2) Should there be any changes made to the procedures for transfer of data from a data escrow provider to ICANN Org?

e) Transfer of data from registrar/ registry to ICANN
- e1) Should there be any changes made to the policy requiring registries and registrars to transfer the domain name registration data that they process to ICANN Compliance, when required/requested?

f) Publication of data by registrar/registry
- f1) Should there be any changes made to registrant data that is required to be redacted? If so, what data should be published in a freely accessible directory?
- f2) Should standardized requirements on registrant contact mechanism be developed?
- f3) Under what circumstances should third parties be permitted to contact the registrant, and how should contact be facilitated in those circumstances?

g) Data retention
- g1) Should adjustments be made to the data retention requirement (life of the registration + 2 years)?
- g2) If not, are changes to the waiver process necessary?
- g3) In light of the EDPB letter of 5 July 2018, what is the justification for retaining registration data beyond the term of the domain name registration?

h) Applicability of Data Processing Requirements
- h1) Should Registry Operators and Registrars ("Contracted Parties") be permitted or required to differentiate between registrants on a geographic basis?
- h2) Is there a legal basis for Contracted Parties to differentiate between registrants on a geographic basis?
- h3) 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?
- h4) Is there a legal basis for Contracted Parties to treat legal and natural person differently?
- h5) What are the risks associated with differentiation of registrant status as legal or natural person across multiple jurisdictions? (See EDPB letter of 5 July 2018).

i) Transfer of data from registry to Emergency Back End Registry Operator ("EBERO")
- i1) Consider that in most EBERO transition scenarios, no data is actually transferred from a registry to an EBERO. Should this data processing activity be eliminated or adjusted?

j) Temporary Specification and Reasonable Access
- j1) Should existing requirements in the Temporary Specification remain in place until a model for access is finalized?

  A. If so:
  1. Under Section 4 of Appendix A of the Temporary Specification, what is meant by "reasonable access" to Non-Public data?
  2. What criteria must Contracted Parties be obligated to consider in deciding whether to disclose Non-Public Registration data to an outside party requestor (i.e. whether or not the legitimate interest of the outside party seeking disclosure are overridden by the interests or fundamental rights or freedoms of the registrant)?

  B. If not:
  1. What framework(s) for disclosure could be used to address (i) issues involving abuse of domain name registrations, including but not limited to consumer protection, investigation of cybercrime, DNS abuse and intellectual property protection, (ii) addressing appropriate law enforcement needs, and (iii) provide access to registration data based on legitimate interests not outweighed by the fundamental rights of relevant data subjects?

- j2) Can the obligation to provide "reasonable access" be further clarified and/ or better defined through the implementation of a community-wide model for access or similar framework which takes into account at least the following elements:
  1. What outside parties / classes of outside parties, and types of uses of Non-Public Registration data by such parties, fall within legitimate purposes and legal basis for such use?
  2. Should such outside parties / classes of outside parties be vetted by ICANN in some manner and if so, how?
  3. If the parties should not be vetted by ICANN, who should vet such parties?
  4. In addition to vetting the parties, either by ICANN or by some other body or bodies, what other safeguards should be considered to ensure disclosure of Non-Public Personal Data is not abused?

Part 3: Data Processing Terms. [DATA MATRIX / DSIs 5, 6, 7, Appendix C]

k) ICANN's responsibilities in processing data
- k1) For which data processing activities undertaken by registrars and registries as required by the Temporary Specification does ICANN determine the purpose and means of processing?
- k2) In addition to any specific duties ICANN may have as data controller, what other obligations should be noted by this EPDP Team, including any duties to registrants that are unique and specific to ICANN's role as the administrator of policies and contracts governing gTLD domain names.

l) Registrar's responsibilities in processing data
- l1) For which data processing activities required by the Temporary Specification does the registrar determine the purpose and means of processing?
- l2) Identify a data controller and data processor for each type of data.
- l3) Which registrant data processing activities required by the Temporary Specification do registrars undertake solely at ICANN's direction?
- l4) What are the registrar's responsibilities to the data subject with respect to data processing activities that are under ICANN's control?

m) Registry's responsibilities in processing data
- m1) For which data processing activities required by the Temporary Specification does the registry determine the purpose and means of processing?
- m2) Which data processing activities required by the Temporary Specification does the registry undertake solely at ICANN's direction?
- m3) Are there processing activities that registries may optionally pursue?
- m4) What are the registry's responsibilities to the data subject based on the above?

Part 4: Updates to Other Consensus Policies [DSIs Appendix D, E, G]

n) URS
- n1) Should Temporary Specification language be confirmed, or are additional adjustments needed?

o) UDRP
- o1) Should Temporary Specification language be confirmed, or are additional adjustments needed?

p) Transfer Policy
- p1) Should Temporary Specification language be confirmed or modified until a dedicated PDP can revisit the current transfer policy?
- p2) If so, which language should be confirmed, the one based on RDAP or the one based in current WHOIS?"

q) Sunsetting WHOIS Contractual Requirements
- q1) After migration to RDAP, when can requirements in the Contracts to use WHOIS protocol be eliminated?
- q2) If EPDP Team's decision includes a replacement directory access protocol, such as RDAP, when can requirements in the Contracts to use WHOIS protocol be eliminated?