**List of Outstanding Items in Initial Report**

| **Outstanding Items to be Discussed by Mailing List, followed by EPDP Team Call** | | | | | | |
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| **Item** | **Page** | **Topic** | **Issue/Question** | **Forum** | **Proposed Date (if applicable)** | **Notes** |
| 1 | 33 | UDRP – Disclosure to Complainant | IPC/BC to confirm:   1. Why disclosure to Complainant/Complainant’s counsel is not addressed under Purpose B? 2. Do the UDRP Rules need to be updated to reflect this new processing activity? Note: disclosure to complainant is not required under the UDRP Rules. | Mailing List, Call | Tuesday, 6 Nov | Please refer to Marika’s email |
| 2 | 21-23 | Geographic Basis (Small Team 2) | h1) Should Registry Operators and Registrars (“Contracted Parties”) be permitted or required to differentiate between registrants on a geographic basis? | Mailing List, Call | Introduced Tuesday, 6 Nov;  Feedback due:  Friday, 9 Nov | Refer to Leadership Proposal, sent Tuesday, 5 Nov |
| 3 | 23-24 | Natural vs. Legal Persons (Rec. 12-14) | 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 persons differently?  h5) What are the risks associated with differentiation of registrant status as legal or natural persons across multiple jurisdictions? | Mailing List, Call | Introduced Tuesday, 6 Nov;  Feedback due:  Friday, 9 Nov | Refer to Leadership Proposal, sent Tuesday, 5 Nov |
| 4 | 14-15 | Technical Contact Disclosure (Rec. 4) | If a registrant optionally provides technical contact information, should it be specified that registrars must obtain the required consent in order to disclose this information? | Mailing List, Call | Introduced Thursday, 8 Nov  Feedback due:  Monday, 12 Nov | This language has been suggested to address the fact that the technical contact may not have a direct contractual relationship with the registrar but relevant consent will need to be obtained. |
| 5 | 17-19 | Publication of data by Ry/Rr + Anonymized Email address | Charter Question  f) Publication of data by registrar/registry:  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? | Mailing List, Call | Introduced Thursday, 8 Nov  Feedback due:  Monday, 12 Nov | The Temporary Specification currently foresees that “Registrar MUST provide an email address or a web form to facilitate email communication with the relevant contact, but MUST NOT identify the contact email address or the contact itself”. Should this requirement remain in place? If yes, any standardized requirements that should be recommended or considered? If no, under what circumstances and how could third parties be able to contact the registrant? |
| 6 | 18-19 | Redaction (Rec. 8) | The EPDP Team recommends that redaction must be applied as follows to the data elements that are collected. Data elements not redacted must appear in a freely accessible directory:  [Refer to table on pp.18-19.] | Mailing List, Call | Introduced Thursday, 8 Nov  Feedback due:  Monday, 12 Nov | The current language aims to reflect the EPDP Team discussion during ICANN63. What aspects need to be further considered? It is the expectation that further information obtained during the public comment period may help to further inform this discussion. |
| 7 | 29-33 | Responsible Parties | The EPDP Team recommends that the policy includes the following data processing activities as well as responsible parties [please refer to table on pp.29-33  Team to discuss use of joint controller | Mailing List, Call | Introduced Thursday, 8 Nov  Feedback due:  Monday, 12 Nov | Based on input received, discuss further on mailing list or future call. |

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| **Outstanding Items where an EPDP Volunteer is needed to draft proposed answers to Charter Questions** | | | | | | |
| **Item** | **Page** | **Topic** | **Issue/Question** | **Forum** | **Proposed Date (if applicable)** | **Notes** |
| 1 | 26- 27 | Data Processing Terms (Charter questions k – m) | 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?  l4) What are the registrar's responsibilities to the data subject with respect to data processing activities that are under ICANN’s control?  m4) What are the registry's responsibilities to the data subject based on the above? | EPDP volunteer draft to list | Friday, 9 Nov |  |

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| **Issues to be addressed via email thread, followed by call only if call is deemed necessary** | | | | | | |
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| 2 | 16  (to be added) | Escrow (Draft Rec. 6) | ~~[~~The EPDP Team recommends that when designating a gaining registrar or emergency back-end registry operator (“EBERO”) to take over for a registrar or registry operator, ICANN shall consider the geographical implications. For example, if the failing registrar/registry is located within the European Economic Area and therefore subject to the GDPR, ICANN shall endeavor to appoint a gaining registrar or EBERO within the EEA, and ICANN shall update its procedures accordingly.][[1]](#footnote-1) | Mailing List | Friday, 9 Nov | On the call, EPDP members noted ICANN should take geographical implications into account during the registry/registrar transition process. Support staff has drafted the following language to account for this issue. |
| 3 | 20-21 | Data Retention | Does the EPDP Team have an issue with the de facto data retention period being one year? | Mailing list | Friday, 9 Nov | This recommendation is derived from Data Elements Workbook A. Are there any concerns about this recommendation? |
| 4 | 33 | Responsible Parties/Third-Party Beneficiaries (Rec. 18) | [The EPDP Team recommends that identification of Data Controllers & Processors or other recommendations made in this report will not affect “No Third-Party Beneficiary” clauses in existing ICANN-Contracted Party agreements.] | Mailing list | Friday, 9 Nov | This is a suggestion that was made during the LA F2F meeting – are there any concerns about adding this preliminary recommendation to the report? |

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| **Admin or Policy Issues to be addressed via Mailing List** | | | | | | |
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| 1 | 35-36 | Sunsetting WHOIS Contractual Requirements (Charter question q) | 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? | EPDP volunteer draft to list | Friday, 9 Nov |  |
| 2 | 36 | Corresponding Consensus Policy Updates (Rec. 26) | Should ICANN’s policies and procedures be updated following adoption of the EPDP Team’s policy recommendations to ensure consistency? | Mailing List | Friday, 9 Nov | This preliminary recommendation is in line with what was discussed during ICANN63 – are there any concerns / issues in relation to this preliminary recommendation that should be further considered? |
| 3 | 36 | Policy Implementation | Which options should the EPDP Team consider in order to avoid a potential gap between the adoption of these policy recommendations by the ICANN Board and the subsequent implementation, noting the impending expiration of the Temporary Specification requirements? | Mailing List | Friday, 9 Nov | This preliminary recommendation aims to translate some of the discussions that have occurred in different venues, for example, the CPH – ICANN Board meeting at ICANN63. Are there any concerns / issues in relation to this preliminary recommendation that should be further discussed? |
| 4 | 37 | Policy Impact Change Analysis | [If the WG concludes with any recommendations, the EPDP must include a policy impact analysis and a set of metrics to measure the effectiveness of the policy change. | Mailing List | Friday, 9 Nov | Language has been suggested for this section by staff – edits / suggestions are welcome. Further consideration will need to be given in the next phase of work in relation to metrics as well as future work following on from this effort (e.g. review). |
| 5 | 4 | Length of Public Comment Period | This Initial Report will be posted for public comment for [30 days] | Mailing list | Friday, 9 Nov | Per the PDP Manual, the minimum public comment period for an EPDP Initial Report is 30 days. (note that the minimum standard for public comment periods is currently 40 days, but with the approval of 2 ICANN Org Executives, this period can be reduced). |

\*Outstanding items highlighted in blue indicate items still under discussion, e.g., Small Team 1 and 2 language that is not yet finalized or items where ICANN Support Staff has suggested language for the Team to review. Staff-suggested language appears in brackets. Items highlighted in red have not been discussed in detail, and it would be helpful if EPDP Team members volunteer to provide draft responses to red items.

\*\*Staff will propose compromise language based on input received by 2 November 2018.

1. With respect to gaining registrars, ICANN shall update its De-Accredited Registrar Transition Procedure. With respect to EBEROs, ICANN shall update its gTLD Registry Transition processes. [↑](#footnote-ref-1)