RECOMMENDATION 6

1. The EPDP Team recommends that ICANN Org enter into legally-compliant data processing agreements with the data escrow providers.

2. The EPDP Team recommends updates to the contractual requirements for registries and registrars to transfer data that they process to the data escrow provider to ensure consistency with the data elements workbooks that analyze the purpose to provide mechanisms for safeguarding Registered Name Holders' Registration Data.

3. The data elements workbook that analyzes the purpose to provide mechanisms for safeguarding Registered Name Holders' Registration Data Registration Data contains the specifically-identified data elements the EPDP Team recommends be transferred by Registries and Registrars to data escrow providers (see Annex D). These data elements are: <please see Initial Report>.

Disclaimer: *This overview has been developed to facilitate the EPDP Team's consideration of the concerns expressed and possible updates to the recommendations. However, this does not replace the EPDP Team's obligation to review all input received in full and to indicate if any concerns in this overview have inadvertently been mischaracterized.*

Noted Concerns

Concern	Corresponding PCRT Comment #	Further Discussion Required?
Support as written. Registrars and registries must be given the opportunity to transfer to data escrow providers in countries covered by or deemed "adequate" under GDPR.	2 (NCSG)	Yes/No
In the interest of RNH protection, all data collected should be transferred to the data escrow provider. [Note that not all of the data collected is in the workbooks – some registries hold special data specific to a particular TLD.]	3, 8, 14 (MarkMonitor, Microsoft, BC)	Yes/No

As new fields are collected by registrars (as per responses to Recommendation #4 already provided), they too should be put into escrow, to protect the registrant's data in case of registrar failure, etc. (i.e. witness the Registerfly fiasco, in case folks have forgotten). ALL data should be escrowed, including historical data, for an audit trail (to ensure recovery from domain thefts, too).	5 (George Kirikos)	Yes/No
The data elements transferred by Registries and Registrars to data escrow providers should include the minimal data set, and not redacted data elements.	6 (Tucows)	Yes/No
The EPDP Team did not specifically discuss and analyze each of the individual data elements identified in Preliminary Recommendation 6. It must do so and revise the recommendation as appropriate. In conducting this analysis, the EPDP Team should bear in mind that no additional data elements should be required to be collected by the registrar or transferred from the registrar to the registry solely to achieve this purpose. Rather, the data elements required to be transferred to the data escrow agents should be derived ONLY from the set of data elements required to be collected by the registrar and transferred from the registrar to the registry in fulfillment of Purposes 1, 3, 6 or 7. While the safeguarding the registration data may be a legitimate processing activity, it does not in and of itself justify the collection or transferring of any additional data elements that are not already collected and transferred for more primary purposes. It is critical for the data elements workbooks to reflect this and for the entire policy to be consistent.	7 (RySG)	Yes/No
Minor language tweaks are needed for sake of clarity and removing typo errors. (See PCRT for suggested edits.)	9 (Government of India)	Yes/No

The current wording does not reference the registry or registrar having a contractual relationship or data processing agreement with the escrow provider(s).	10, 12 (Michele Neylon, RrSG, Volker Greimann)	Yes/No
We must insure that the data submitted under this program is legally and technically (encryption) protected, and otherwise aligns to the limitations and considerations adopted for the legal and proper processing and protection of data.	11 (GoDaddy)	
Registries and registrars transfer the necessary personal data to the data escrow provider in order to safeguard the Registered Name Holder's Registration Data, to enable the further administration of a domain name. The data elements which are not personal data are sufficient but the only personal data elements to be transferred should be those collected in line with data minimization.	12 (RrSG, Volker Greimann)	Yes/No
While there is some rationale for data escrow, the escrow stipulation amounts to data replication - This is yet another copy of the database. Whatever be the security standards, whatever be the safeguards, an additional copy of the database increases risk of privacy hazards. If this storage redundancy is indeed required, then ICANN could consider ways of building inhouse capabilities for usually locked redundant storage.	15 (Sivasubramanian Muthusamy)	Yes/No
Not enough information is provided in this recommendation to support it or recommend edits.	16 (John Poole)	Yes/No
This recommendation should be deleted. The EPDP already has agreed that all pre-Temp Spec registrant Whois data elements should continue to be collected. Escrow serves a purpose clearly in line with ICANN's Mission and also one in the best interest of the registrant. This data is not published so much like it can be collected, it can be stored securely.	17 (Tim Chen)	Yes/No