**Feedback due on:**

|  |  |
| --- | --- |
| **Recommendation / Purpose #** | **Due Date** |
| Recommendation #1 | Friday, 25 January |
| Recommendation #4 | Tuesday 29 January (to be circulated) |
| Recommendation #7 | Wednesday, 30 January |
| Recommendation #9 | Thursday, 24 January (updated version to be shared shortly addressing input received) |
| Recommendation #10 | Monday, 28 January |
| Recommendation #11 | Friday, 25 January |
| Recommendation #13 | Monday 28 January |
| Recommendation #14 | Monday, 28 January |
| Geographic Differentiation | Tuesday, 29 January (to be circulated) |

**Public Comment Review Status 24 January 2019**

| **Purpose / Recommendation #** | **To be reviewed**  | **Completed** | **Notes** | **Proposed Language** | **Deadline for Providing Feedback** |
| --- | --- | --- | --- | --- | --- |
| Purpose 1 - Establish the rights of a Registered Name Holder  | **√** |  | Awaiting workbooks from RySG; determine if ‘rights/obligations’ is required | In accordance with the relevant registry agreements and registrar accreditation agreements, activate a registered name and allocate it to the Registered Name Holder. Subject to the Registry and Registrar Terms, Conditions and Policies and ICANN Consensus Policies:(i) Establish the rights of a Registered Name Holder in a Registered Name; and(ii) Ensure that a Registered Name Holder may exercise its right in the use and disposition of the Registered Name.  |  |
| Recommendation #1 –Purposes for collecting  | **√** |  | Milton circulated email re: additional purposes to the Team. | The EPDP Team commits to considering in Phase 2 of its work whether additional purposes should be considered to facilitate research carried out by ICANN’s Office of the Chief Technology Officer (OCTO) as well as the continuation of the WHOIS Accuracy Reporting System (ARS). This consideration should be informed by legal guidance on if/how provisions in the GDPR concerning research apply to ICANN Org.  | **Friday, 25 January** |
| Recommendation #9 – Organization field | **√** |  | Final language circulated. Deadline for review Thursday 24 January | 1. The EPDP Team recommends that Registrars MAY begin redacting the Registrant Org field immediately.
2. For existing registrants: the EPDP Team recommends that Registrars MUST notify all existing Registered Name Holders that the Registrant Org field will be treated as non-personal data for new registrants beginning on [x date - to be agreed upon during the implementation of this Policy], and accordingly, the field will be published for new registrants in the freely-accessible directory beginning on [x date]. However, if existing Registered Name Holders wish to have its Organization field published within the freely-accessible database, it must affirmatively consent to the publication by opting in. If the Registered Name Holder affirmatively opts in to the publication of its existing (or modified) Registrant Organization, the Registrar may publish the Registrant Organization Field immediately and/or on the agreed-upon [x] date.
3. The EPDP Team recommends if the existing Registered Name Holder does not affirmatively opt in to the publication of its Registrant Organization field, the Registrar will show the existing Registrant Organization Field but the field MAY be left blank.
4. Upon (1) the registration of a Registered Name sponsored by Registrar or (2) the transfer of the sponsorship of a Registered Name to Registrar, the Registrar MUST inform the Registered Name Holder that the Registrant Org field will be published unless the Registered Name Holder affirmatively opts in to redaction of the Registrant Org field.
 | **Thursday, 24 January** |
| Recommendation #10 – Email communication | **√** |  | Final language circulated. Deadline for review Monday 28 January | 1) In relation to facilitating email communication between third parties and the Registered Name Holder, the EPDP Team recommends that current requirements in the Temporary Specification that specify that a 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, remain in place. 2) The EPDP Team recommends Registry Operators and Registrars MUST maintain Log Files associated with the transmission of email communications between the Registry Operator/Registrar and the Registered Name Holder. 3) The EPDP notes operational difficulties having to do with contacting registered name holders through webforms (where there is no confirmation that the message sent was received) and pseudonymized email addresses (that often can be readily "hacked" to discover the identity of the addressee), and recommends the GNSO Council initiates work to develop a reliable, safe ways of contacting registrants in cases where their email cannot be displayed. | **Monday, 28 January** |
| Recommendation #14 - Responsible parties | **√** |  | Principle agreement reached. Updated language to be circulated and reviewed. | During Phase 1 of its work, the EPDP Team documented the data processing activities and responsible parties associated with gTLD registration data. The EPDP Team, accordingly, recommends the inclusion of the data processing activities and responsible parties, outlined below, to be confirmed and documented in the relevant data processing agreements, noting, however, this Recommendation may be affected by the finalization of the necessary agreements (described elsewhere in this report) that would confirm and define the roles and responsibilities. | **Monday, 28 January** |
| Implementation Transition Period | **√** |  | Principle agreement. Language to be reviewed by EPDP Team and confirmed by CPH. |  |  |
| Recommendation #4 - Data elements to be collected by Registrars (incl. Question #2) | **√** |  | Review input provided during public comment and recommend changes, if any, to original recommendation; in addition (1) settle issue of whether regitrars should be required to offer the ‘optional’ Techical Contact fields; (2) Alan G recognized that elimination of the Admin Contacts can affect older registrations that included no name for the RNH. James ladel to address this issue. |  |  |
| Recommendation #5 - Data elements to be transferred from Registrars to Registries | **√** |  | Review input provided during public comment; amend, if necessary, the recommendation and inform the small data elements review team of pertinent public comment or plenary conclusions |  |  |
| Recommendation #6 - Escrow Providers | **√** |  | Public comment review completed, small team to review data elements workbooks |  |  |
| Recommendation #7 – Contractual Compliance | **√** |  | Proposed updates to the language circulated to the list – deadline for review Fri 25 Jan  | 1. The EPDP Team recommends that updates are made to the contractual requirements **concerning the registration data elements** for registries and registrars to transfer to ICANN Compliance the domain name registration data that they process when required/requested, consistent with the data elements **listed hereunder (for illustrative purposes, please see** the workbook that analyzes the purpose to handle contractual compliance monitoring requests, audits, and complaints submitted by Registry Operators, Registrars, Registered Name Holders, and other Internet users in Annex D).
2. ~~The data elements workbook that analyzes the purpose to handle contractual compliance monitoring requests, audits, and complaints submitted by Registry Operators, Registrars, Registered Name Holders, and other Internet users contains the specifically-identified data elements~~ The EPDP Team recommends that the following data elements be transferred from registries and registrars to ICANN Compliance\*

 \*To clarify, the data elements listed here are the aggregate of data elements that ICANN Compliance may request. As noted in the [Summary of ICANN Organization’s Contractual Compliance Team Data Processing Activities](https://community.icann.org/download/attachments/90774122/Summary-Contractual-Compliance-Data-Processing-Activities.pdf?version=1&modificationDate=1542678827000&api=v2) “If the Contractual Compliance Team is unable to validate the issue(s) outlined in a complaint because the publicly available WHOIS data is redacted/masked, it will request the redacted/masked registration data directly from the contracted party (or its representative). In these instances, the Contractual Compliance Team will only request the redacted/masked data elements that are needed to validate the issue(s) outlined in the complaint” | **Wednesday, 23 January** |
| Recommendation #11 - Data retention | **√** |  | Proposed updates to the language circulated to the list – deadline for review Fri 25 Jan  | 1)  The EPDP team recommends that ICANN,  as soon as is practicable,  undertakes a review of all its active process and procedures so as to identify and document the instances in which personal data are requested from a registrar, outside of the normal retention period of the 'life of the registration'. Identified retention periods, for specific data elements should be then documented and be relied upon to establish, the required relevant and specific, minimum data retention expectations for registrars. 2) In the interim, the ePDP has recognized that the Transfer Dispute Resolution Policy (“TDRP”) has been identified as one such process. The ePDP team therefore recommends that ICANN should direct registrars to retain only those data elements as deemed necessary for the purposes of the TDRP, for a period of one year following the life of the registration. This retention is grounded on the stated policy stipulation within the TDRP, that claims under the policy may only be raised for a period of 12 months after the alleged breach (FN: see TDRP section 2.2) of the Transfer Policy (FN: see Section 1.15 of TDRP). 3) The ePDP recognizes that Contracted Parties may have needs or requirements for longer retention periods in line with local law or other requirements. The ePDP recommends that nothing in this recommendation, or in separate ICANN mandated policy, should prohibit contracted parties from setting their own limitation periods beyond that which is expected in ICANN policy. Similarly, should local law prevent retention for the minimum period as set by ICANN, the ePDP recommends that a suitable waiver procedure is place that can address such situations. | **Friday, 25 January** |
| Recommendation #12 - Reasonable access | **√** |  | Small team working on possible language to address concerns. Confirm outcome via email thread?  |  |  |
| Recommendation #13 - Controller Agreement | **√** |  | Use email thread to aim to close on small group language | The EPDP Team recommends that ICANN Org negotiates and enters into required data protection agreements such as a ~~Data Processing Agreement (GDPR Art. 28) or~~ Joint Controller Agreement (Art. 26), as appropriate, with the Contracted Parties. In addition to the legally required components of such agreement, the agreement shall specify the responsibilities of the respective parties for the processing activities as described therein. Indemnification clauses shall ensure that the risk for certain data processing is borne by either one or multiple parties that determine the purpose and means of the processing. **[Due consideration should be given to the analysis carried out by the EPDP Team in its Final Report.]** | **Monday, 28 January** |
| Recommendation #22 - Impact on other policies  |  | **√** | To be revisited at the end of the process – add TDRP |  |  |
| General Comments | **√** |  | To review input provided during public comment |  |  |
| Purpose 2 - Maintaining SSR through enabling of lawful access |  | **√** |  |  |  |
| Purpose 3 - Enable communication with RNH |  | **√** |  |  |  |
| Purpose 4 - Safeguarding RNH's Registration Data |  | **√** |  |  |  |
| Purpose 5 - Handling Contractual Compliance |  | **√** |  |  |  |
| Purpose 6 - Resolution of DRPs |  | **√** |  |  |  |
| Purpose 7 - gTLD registration policy eligibility criteria  |  | **√** |  |  |  |
| Recommendation #2 - Commitment to consider a system for Standardized Access to non-public Registration Data |  | **√** |  |  |  |
| Recommendation #3 - Requirements related to accuracy |  | **√** |  |  |  |
| Recommendation #8 – Redaction |  | **√** | Note, could be reconsidered based on input provided by legal counsel.  |  |  |
| Recommendation #15 - URS / UDRP |  | **√** |  |  |  |
| Recommendation #16 - Instructions for RPM PDP WG |  | **√** |  |  |  |
| Recommendation #17 - Input from RPM PDP WG to inform subsequent access discussion |  | **√** | Eliminate Recommendation, turn into action item |  |  |
| Recommendation #18 - Data processing agreements with dispute resolution providers (incl. Question #4) |  | **√** |  |  |  |
| Recommendation #19 - Transfer Policy |  | **√** |  |  |  |
| Recommendation #20 - Input to Transfer Policy review (incl. Question #5) |  | **√** |  |  |  |
| Recommendation #21 - Data processing agreements with non-Contracted Party entities involved in registration data processing |  | **√** |  |  |  |