**CHANGES FOR GROUP CONSIDERATION**

|  | **Changes for Group Consideration** | **Leadership Observations** | **Proposed Path Forward** |
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|  | **Recommendation #7 - Footnote 12 – “**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 “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”.”  **Comment (BC):**  Delete the quote in Footnote 12 on page 24, since this is inconsistent with Purpose 5. | Leadership does not see the inconsistency. This was a change that was specifically made in response to public comment and reflects the input provided by ICANN Compliance in relation to how data is used and requested. | Leave footnote as is |
|  | **Technical Contact**  **Comment (BC):**  We believe it is important to follow the EDPB’s advice and propose including a recommendation regarding informed consent, in light of the legal advice received, as follows:  The EPDP recommends that as part of the registration process, the Registrar shall offer the registered name holder the option to (1) designate the same person as the registrant or its representative as the technical contact; or (2) provide contact information which does not directly identify the technical contact person, but instead uses a generic or role-based email (e.g. [admin@company.com](mailto:admin@company.com)). | Already addressed in Rec #4?  Note, the following language is already part of rec #4: For the purpose of the Technical contact, which is optional for the Registered Name Holder to complete (and if the Registrar provides this option), Registrars are to advise the Registered Name Holder at the time of registration that the Registered Name Holder is free to (1) designate the same person as the registrant (or its representative) as the technical contact; or (2) provide contact information which does not directly identify the technical contact person concerned.  (note this language was inadvertently left out of the draft Final Report – it will be updated in the next version) | Already addressed in recommendation #4 so no need to duplicate |
|  | **Optional Tech Contact**  **Comment (BC)**  We do not support making the Tech Contact optional at the registrar level or registry level and believe that more discussion is needed.  For example, we have not discussed what happens to existing Tech contacts in the legacy registrations. Shouldn’t there be a similar transitional process to what has been developed for the ORGANIZATION field?  In any event, this obligation must be required for the registries since they should receive the tech contact data for those registrants who have provided consent.  (BC) | EPDP Team has discussed this issue extensively, but not all agree which has been clearly noted in the report. Consider including implementation guidance to consider transitional process for legacy registrations? | Implementation: Provide a transition plan for registrants, following notification of changes to tech contact, to allow registrants to adjust as necessary.  Phase 2: Consider whether an Org field like process would be desirable and appropriate. |
|  | **New recommendation re. Consent** (“The EPDP Team recommends that, as soon as commercially reasonable, Registrar must provide the opportunity for the Registered Name Holder to provide its Consent to publish additional contact information”).  **Comment (BC):**  Line 549  please delete  “as soon as commercially reasonable”.  Instead, this recommendation should track the dates for implementation under the transition plan that James and the registrars proposed in Toronto. | Note that this reference is derived from the Temporary Specification. Please provide further details on ‘dates for implementation under the transition plan that James and the registrars proposed’? | Request input on these suggestions on the mailing list, followed by subsequent discussion, if needed. |
|  | **THICK WHOIS**  **Comment (BC)**  **Rec 4:** THICK WHOIS: we do not support the deletion of THICK WHOIS as a consensus policy, and believe that this goes beyond the scope of this EPDP.  Comment (RySG)  The Registries and Registrars have several questions and concerns regarding the proposed text and edits to Recommendation 5.  Both the genesis of the edits and language of Recommendation 5 are unclear.  As it stands the language and intent of the Recommendation are ambiguous and could have unintended impacts on the interpretation and application of Purposes 1a and 1b, which are foundational to the EPDP’s outcomes.  See <https://mm.icann.org/pipermail/gnso-epdp-team/2019-February/001480.html> including proposed rewording) | Recommendation #5 or other sections of the Final Report do not recommend deletion of the Thick WHOIS policy but notes that the policy will need to be reviewed to assess the impact of the EPDP Team’s recommendations as well as the impact of GDPR on Thick WHOIS. Note also the interplay and timing of implementation of RDAP and development of access model. | Discussed during meeting #43 – refer to meeting notes and action items. Work on data elements workbooks and analysis to be included in the Final Report. GNSO Council to consider further how to address impact on Thick WHOIS, which could include referring it to this group or another effort. |
|  | **Recommendation 8 – Redaction**  **Comment (BC)**  **Rec 8:**  GLOBAL REDACTION vs. OPTIONAL AT THE REGISTRAR---  We do not agree with global application of the REDACTION, and believe  that this recommendation goes well beyond the Temp Spec, which at a minimum allows the registrars/registries to CHOOSE a different application, especially because of differing legal regimes.  Our policy needs to be flexible enough to account for laws beyond GDRP, such as the possible US legislation related to WHOIS.  Similarly, we do not believe that the redaction should apply to legal persons.  We recall James suggesting that we could consider an approach similar to the approach taken for the ORGANIZATION Field, and thus we would like to further explore it in Phase 2. | Note that section 2 of the Temp Spec refers to “Requirements for Processing Personal Data in Public RDDS Where Processing is Subject to the GDPR”. This seems to have been inadvertently left off. | Add this heading to this recommendation – and also confirm that Appendix A – section 3 should remain in place (“additional provisions concerning processing personal data in public RDDS where processing is not subject to the GDPR”). |
|  | **City Redaction**  **Comment (BC)**  **PAGE 27**:  REDACTION OF CITY– we don’t agree with the redaction of CITY and are awaiting legal advice from Ruth on the issue. As a result, it is premature to make a recommendation that it be redacted now.  This should be a Phase 2 discussion  (BC) | The Draft Final Report notes that legal guidance has been requested which may change the viewpoints on this issue. The recommendation as currently worded is consistent with the Temporary Specification. | Already addressed in the current wording of the recommendation. As noted, if legal guidance comes in a timely manner, EPDP Team will be able to reconsider this recommendation. |
|  | **Recommendation 9 – Org Field**  **Comment (BC)**  **REC 9:**   Instead of a “via a process that can be determined by each registrar” we should have concrete steps that can be enforced by ICANN.  Could the registrars identify some reasonable steps for this process?  ADD:  After the implementation phase-in period, the ORG FIELD will no longer be REDACTED by either the registry or registrar. | The EPDP Team previously discussed that flexibility should be provided to the registrar to implement this, without necessarily a uniform process. Similarly, the recommendation foresees that it is up to the registrar to determine whether or not to redact Org Field. | Request input on these suggestions on the mailing list, followed by subsequent discussion, if needed. |
|  | **Definition of Registration Data**  **Comment (RySG)**  The Temp Spec contains this definition: “Registration Data” means data collected from a natural and legal person in connection with a domain name registration.”   The “in connection with” language is so broad and vague that it could be interpreted to data that registrars and registries would not consider to be registration data such as billing data, account creation data, and the like.  RySG proposes to revise the definition to reference the relevant data elements: “Registration Data” means the data ***elements identified in Annex [X]***, collected from a natural and legal person in connection with a domain name registration.”  (Annex [X] would then identify the relevant data elements, as carried over from the whatever becomes the final version of Recommendation 4).  Additional text is in ***bold and italics***. |  | Request input on these suggestions on the mailing list, followed by subsequent discussion, if needed. |
|  | **Recommendation 10 – Email Communication**  **Comment (ALAC)**  On Rec 10, you will recall that the Temp Spec requires (after reasonable implementation delay) that REDACTED information be displayable with the consent of the data subject, but since e-mail addresses are not "redacted" it did not apply. I believe there was agreement that there must be a provision for a registrant to specify that their e-mail addresses display. That implies that part 1 should end with something like "... but MUST NOT identify the contact email address or the contact itself unless the registrant explicitly requests such display." | Note that this is already covered by the recommendation on consent (“The EPDP Team recommends that, as soon as commercially reasonable, Registrar must provide the opportunity for the Registered Name Holder to provide its Consent to publish additional contact information”). Consider referring to this recommendation or use similar language (“unless the Registered Name Holder has consented to publish additional contact information such as the email address”) | Revised language to be circulated on the mailing list, followed by subsequent discussion, if needed. |

**APPARENT NON-SUBSTANTIVE CHANGES**

|  | **Non-substantive changes: Corrections, Move Text, Changes for Consistency** | **Leadership Observations** | **Proposed Path Forward** |
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|  | Rec 1 – Purposes - b. Subject to the Registry and Registrar Terms, Conditions and Policies and ICANN Consensus Policies:   * Establish the rights of a Registered Name Holder in a Registered Name; and * Ensure that a Registered Name Holder may exercise its right in the use, maintenance and disposition of the Registered Name   **COMMENT (BC):**  **Purpose 1(b):**   Subject to the Registry and Registry Terms Conditions and Policies, and ICANN Consensus Policies – please ADD: {and relevant registry agreements and registrar accreditation agreements] |  | Make update as suggested |
|  | **Purpose 2**  **COMMENT (BC)**  Footnote 6 needs to be moved to be linked to Purpose 2, not Rec 2. | Correction of misplaced footnote. | Make update as suggested |
|  | **Recommendation 2**  **COMMENT (BC)**  **Footnote 7/8** should not be a footnote but moved up to the body of the report.  These footnotes are substantive recommendations and commitments that should not be buried in a footnote. | These were agreed to in Toronto as footnotes. Moving it into the body of the report does not change the importance. | Leave as is |
|  | **Recommendation 7**  **COMMENT (BC)**  Replace “ICANN Compliance” with ”ICANN Organization” to be consistent with other recommendations. |  | Make update as suggested |
|  | **Recommendation 8**  **COMMENT (BC)**  **Footnote 15** is a recommendation that should be moved into the body of the Final Report & not be buried in a footnote.   Also- it needs to exclude registrations with privacy/proxy services and those for which the registrant has provided consent. | Note that this footnote refers to the actual recommendation on email communication where this language is replicated.  Note that a new recommendation has been agreed in relation to P/P registrations. | Do not make update as it is already addressed in recommendation #10 |
|  | **Recommendation 18**  **COMMENT (NCSG)**  Line 2066, Rec 18:  If we are getting rid of data processing agreement replacing with data protection arrangements then please be consistent throughout the document. Or are we only getting rid of DPA and JCA only regarding registries and registrars? | Leadership agrees that it is important to be consistent and as such recommends referring to ‘data protection arrangements’ throughout the document. This would include updates to rec 18 and 21. | Currently under discussion – whatever is settled on for rec 13 should also apply to other recommendations. |