# The interaction between

# distinction of legal vs natural registrants

# and

# availability of differential access

Steve Crocker, SSAC

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The GNSO EPDP 2A WG is devoting considerable attention to questions related to the distinction between natural and legal persons. The privacy of natural persons is protected by the GDPR and other privacy regimes. The privacy of legal persons is not. Registrars are at risk if they do not protect the privacy of natural persons. Determining the status of a particular registrant is often not an easy and certain process. In particular, the status of existing registrations poses a substantial problem.

Registrars can reduce their risk if they treat as public only those registrations they are certain belong to legal person. This suggests there may be a tendency toward over protection.

The consumers of registration data surely want access to as much data as possible. Differentiated access will provide authorized requesters, operating under agreed upon ground rules and for approved purposes, access to data that is otherwise not publicly available. However, differentiated access does not exist yet, and there are several substantial hurdles before differentiated access becomes a reality. In particular:

* Definition of the purposes, requesters authorized to pursue those purposes, and details of what data will be provided to those requesters.
* Efficient implementation of a differentiated access system that operates smoothly and quickly. The vast majority of responses to requests will have to be automated.
* Costs, both of the overall system and on the various parties.

The uncertainties surrounding differentiated access has created a bifurcation in the thinking among members in the community. Members who fear that differentiated access may not come into existence or may take a very long time tend to be focused on public access to as much data as possible. Members who have confidence that an effective and efficient system of differentiated access will come into existence within a reasonable time frame tend feel a bit more relaxed about distinguishing between natural and legal persons. The difference between these positions is relative, not absolute. Everyone is in agreement that it is desirable to distinguish between natural and legal persons. The question is whether it is essential.

The following table is an attempt to bring to the surface the interactions between emphasis on distinguishing natural vs legal persons and confidence that an effective, efficient and timely differentiated access system will be available. This table is intended as a conversation starter, not a well-researched and documented evaluation. The impact of the various choices are shown along four dimensions. Perhaps other dimensions should be included.

The color codes are simple:

* Green = optimum
* Yellow = Neither ideal nor terrible
* Red = poor

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  |  | Risk to Registrar | Cost to Registrar | Utility to Legitimate User | Cost to Legitimate User |
| No confidence in differentiated access | No distinction |  |  |  | ? |
| Modest effort |  |  |  | ? |
| Strong effort |  |  |  | ? |
| High confidence in differentiated access | No distinction |  |  |  | ? |
| Modest effort |  |  |  | ? |
| Strong effort |  |  |  | ? |

There is one key message here: The emphasis on determining whether a registrant is a natural person or a legal person is just one part of the overall data access model. It makes a qualitative difference whether or not there is shared confidence in the forthcoming existence of an effective, efficient and timely differentiated access system.