***DRAFT—FOR DISCUSSION ONLY***

Dear Members of the GNSO Council:

We write in our capacity as Co-Chairs of the PDP WG reviewing all RPMs in all gTLDs.

Like others in the ICANN community, our WG is closely following the ongoing discussion regarding WHOIS data accessibility as it relates to the GDPR.

We understand that ICANN is working with community members to expeditiously finalize its *Interim Model for Compliance with ICANN Agreements and Policies in Relation to the European Union’s General Data Protection Regulation*.

We write to inform the Council – as possible stewards of an expedited GDPR‑related policy process – of the need for WHOIS data to facilitate the fair and efficient administration of UDRP and URS cases.

To meet due process standards in UDRP and URS cases, the relevant Dispute Resolution Providers (DRPs) must communicate with the domain name registrant/respondent based upon email, postal, and facsimile information found in the “Whois database for the registered domain-name holder”. It is particularly important that access to this data remain available during the period between the initiation of GDPR enforcement on May 25, 2018 and development and implementation of an accreditation and access model.

In this respect we are pleased to see that each of the three apparently leading models being discussed – the ICANN Interim Model, the ECO Playbook, and the IPC/BC Accreditation & Access model – specifically recognize that UDRP and URS DRPs meet the GDPR’s Article 6(1)(f) legitimate purposes, and Article 6(1)(b) performance of a contract criteria, such that registries and/or registrars, as the case may be, can and should provide such DRPs with access to WHOIS data.

Attached you will find a chart prepared at our request by ICANN staff supporting our WG that references relevant provisions of UDRP Policy and Rules, and URS Procedure and Rules, that directly or indirectly reference access to and use of registrant data and the WHOIS database.

We hope you find this background information useful and would be pleased to respond to any questions on this subject.

Sincerely,

Philip S. Corwin

Kathryn A. Kleiman

cc: RYSG

 RrSG

 ICANN

 ECO

BC/IPC