## Problem/Issue

Since that decision, the discussion of RDS (WHOIS) in ICANN has evolved and considerable focus has been targeted at the EU GDPR, its impact on the current RDS (WHOIS), and how it will influence RDS (WHOIS) developments.

Given:

* the focus on GDPR and the ongoing efforts to address this effectively in the short to medium term;
* the fact the OECD Guidelines have been made less relevant by the actual regulations and laws in Europe and other jurisdictions; and
* the more generalized requirement for the RDS (WHOIS) Specific Review to consider safeguards for protecting registration data;

the review team believes that the reference to “safeguarding registrant data” in section 4.6(e)(ii) and entire section 4.6(e)(iii) of the ICANN Bylaws should be replaced with a more generic requirement to review how the RDS (WHOIS) addresses applicable data protection law and best practice.[[1]](#footnote-1)

## Recommendations

Recommendation BY.1

The ICANN Board should take action to eliminate the reference to “safeguarding registrant data” in ICANN Bylaws section 4.6(e)(ii) and replace section 4.6(e)(iii) of the ICANN Bylaws with a more generic requirement for RDS (WHOIS) review teams to assess how well RDS (WHOIS) policy and practice addresses applicable data protection and cross border data transfer regulations, laws and best practices.

Findings: Refer to Analysis and Findings section.

Rationale: Refer to Problem/Issue section

Impact of Recommendation: This recommendation is aligned with the ICANN Bylaws and scope of this review. The impact of this recommendation will be to simplify the work of future Directory Service Review Teams. If this recommendation is not addressed, future Directory Service Review Teams will have to repeat the analysis conducted by the RDS-WHOIS2 review team.

Feasibility of Recommendation: The RDS-WHOIS2 review team believes that this recommendation is feasible.

Implementation: The RDS-WHOIS2 review team believes that this recommendation can be carried out by the ICANN Community, following the process foreseen by the current Bylaws Section 4.6(a)(v).

Priority: [To Be Determined]

Level of Consensus: [To Be Determined]

1. The review team welcomes suggestions for specific wording of such a Bylaw replacement. [↑](#footnote-ref-1)