The Registrar Stakeholder Group (RrSG) representatives to the EPDP Phase 2A Working Group (WG) would like to thank ICANN Staff and all other EPDP WG members for their hard work throughout this phase of the EPDP. The following statement is intended to supplement our consensus vote and input throughout the course of the Phase 2A EPDP work.

**General Comments**

Throughout the EPDP Phase 2A deliberations, the RrSG team has emphasized that each individual registrar must be able to determine the level of risk they assume, within a baseline that permits adherence to relevant legal obligations. Similarly, each individual registrar must be able to determine what they consider to be commercially and technically feasible for their own unique business.

Although the Recommendations put forward by this EPDP 2A WG do allow that self-determination to occur, providing options and guidance for those registrars and registries which choose to differentiate based on the presence of personal data in the registration record, or which choose to publish a registrant-based or registration-based contact email, it is disappointing that achieving this result was the product of significant struggle. Throughout the work on this Phase, the WG revisited issues repeatedly without adding anything substantially new to the discussion, and discussed topics which were out of scope. Perhaps most importantly, the WG was on many occasions uninterested in or unconcerned with the legal and financial risks that some proposed obligations would create for contracted parties in varying jurisdictions or of differing business models, or the risks to registrants themselves.

Finally, we note that any potential benefits of mandatory policy obligations in these areas, which would negate the crucial ability for registrars to choose their own legal, commercial, and technical risks, were not demonstrated clearly or convincingly enough to showcase an absolute need for such obligations as opposed to less problematic options suggested by the registrar team. Suggested policy obligations were not grounded in strict necessity or broadly-accepted improvements to the domain ecosystem, which may have provided justification for requiring them. The RrSG team is therefore confident that the outcome of the Phase 2A work, including the guidance and the optional requirements for differentiation and use of a registrant-based or registration-based email address, is the appropriate result.

**Legal Entities vs. Natural Persons**

The RrSG team supports maintaining Phase 1 Recommendation #17 (1), and considers this to be resolution of the issue as mentioned in Phase 1 Recommendation #17 (3). Although the various groups represented in the EPDP Phase 2A WG did not come to agreement on the topic, all relevant inputs were reviewed and addressed in detail during the deliberations and no further deliberation is planned or expected; as such, the issue has been resolved. Further, this is the *right* resolution. Each individual registrar must be in control of conducting its own risk/benefit analysis and considering its own unique jurisdictional landscape in order to determine if and how it will differentiate, and this maintains the ability to do so.

The registrar team emphasizes that the method of differentiating will vary across registrars. Both the use of “flags” or “fields” to indicate person type or the presence of personal data as well as the contents of the guidance itself have been approached within this Phase as optional, rather than mandatory for all registrars. This guidance is high-level and the product of significant compromise; it is useful but is not applicable in all situations or to all registrars worldwide. As such, it *must* remain optional. Any mandatory guidance or Code of Conduct can only be created by the relevant Contracted Parties themselves, with all due consideration of input from the community.

**Feasibility of Unique Contacts**

The RrSG team agrees that publishing a registration-based or registrant-based email address in the public RDDS is a data processing activity and appreciates the helpful and thorough input provided by Bird & Bird on this topic. While some implementations of this publication option may be lower risk than others, we note again that each individual registrar must be able to determine the degree to which they assume legal risks, rather than have this decision made for them by the EPDP Phase 2A WG. Accordingly, we encourage all readers of this Final Report to review the legal guidance provided on this topic (included as Annex F to the Final Report), and we anticipate that further guidance and support will be made available to Registrar Stakeholder Group members as needed.

For further insight into the RrSG team’s views on these topics, please refer also to our post on Circle ID: [Privacy, Legal vs. Natural Persons, and the Never-Ending ICANN EPDP](https://circleid.com/posts/20210607-privacy-legal-vs-natural-persons-and-never-ending-icann-epdp/). Thank you.