

Registries Stakeholder Group Statement

Issue: **Addendum to the Initial Report of the EPDP On the Temporary Specification for gTLD Registration Data Team - Phase 2**

Date statement submitted: **5 May 2020**

Reference url: <https://www.icann.org/public-comments/epdp-phase-2-addendum-2020-03-26-en>

This comment was submitted via google forms and can be viewed [here](#).

EPDP On the Temporary Specification for gTLD Registration Data - Phase 2 - Public Comment Proceeding Input Form

1. **Email address**

2. **Please provide your name:** Samantha Demetriou, RySG Vice Chair, Policy

3. **Please provide your affiliation** Registries Stakeholder Group (RySG)

4. **Are you providing input on behalf of another group (e.g., organization, company, government)?** Yes

5. **If yes, please explain:** Registries Stakeholder Group (RySG)

[6. **Do you want to save your progress and quit for now?**]

Section 3, EPDP Phase 2 Addendum - Preliminary Recommendations and Conclusions

Preliminary Recommendation #20: Display of information of affiliated vs. accredited privacy / proxy providers

In the case of a domain name registration where an accredited privacy/proxy service is used, e.g., where data associated with a natural person is masked, Registrar (and Registry, where applicable) MUST include the full RDDS data of the accredited privacy/proxy service in response to an RDDS query. The full privacy/proxy RDDS data may include a pseudonymized email.

7. Please choose your level of support for Recommendation #20:

Support Purpose as written

Support Purpose intent with wording change

Significant change required: changing intent and wording

Purpose should be deleted

No opinion

8. If your response requires an edit or deletion of Recommendation #20, please indicate the revised wording and rationale here.

Preliminary Conclusion: Legal vs. Natural Persons

There is a persistent divergence of opinion on if/how to address this topic within the EPDP Team. As a result, the EPDP Team will consult with the GNSO Council on potential next steps.

9. Choose your level of support of the preliminary conclusion for Legal vs. Natural Persons:

Support Recommendation as written

Support Recommendation intent with wording change

Significant change required: changing intent and wording

Recommendation should be deleted

No opinion

10. If your response requires an edit or deletion of the preliminary conclusion for Legal vs. Natural Persons, please indicate the revised wording and rationale here.

This preliminary conclusion should be updated to reflect the current status of these deliberations with the GNSO.

The RySG's view is that the issue of redaction of legal vs. natural person data has been thoroughly considered and determined by the EPDP. The RySG membership consists of dozens of registry operators with distinct business models, including some that exclusively serve registrant bases that are organizations or legal persons, and others that serve a broader registrant base. The RySG supported the Phase 1 recommendation to allow registries and registrars the flexibility to differentiate between legal and natural persons in the public RDS output, without establishing that differentiation as a requirement, because it met the needs of its members.

Given the prior deliberations on this topic within Phase 1 of the EPDP, and the conclusion that the Team reached, the RySG believes that this is not a topic where the Team will benefit from additional

discussion or consideration of the issue. The EPDP determined in Phase 1 Rec 17 that Contracted Parties are “permitted to differentiate between registrations of legal and natural persons, but are not obligated to do so.” We do not disagree that GDPR does not require the redaction of legal person data, but as a policy matter it is not feasible for all contracted parties to reliably differentiate between legal and natural person registrants. Moreover, in some instances even legal person registrations may contain natural person data in some fields (e.g. contact data for a natural person).

While some have proposed registrant self-identification and consent from natural persons for the publication of their data in a legal person registration as a solution to publishing legal person data, the legal advice received on this issue from Bird & Bird demonstrates that both approaches create significant risks of liability for Contracted Parties.

We note that one RySG member, the National Association of Boards of Pharmacy (NABP, operator of the .PHARMACY gTLD) opposes this position on the grounds that transparency of contact information for legal persons promotes public safety.

Preliminary Conclusion: City Field Redaction

No changes are recommended to the EPDP Phase 1 recommendation that redaction must be applied to the city field.

11. Choose your level of support of the preliminary conclusion for city field redaction:

Support Conclusion as written

Support Conclusion intent with wording change

Significant change required: changing intent and wording

Conclusion should be deleted

No Opinion

12. If your response requires an edit or deletion of the preliminary conclusion for city field redaction, please indicate the revised wording here.

Recommendation #21: Data Retention

The EPDP Team confirms its recommendation from phase 1 that registrars be required to retain only those data elements deemed necessary for the purposes of the TDRP, for a period of fifteen months following the life of the registration plus three months to implement the deletion, i.e., 18 months. This retention is grounded on the stated policy stipulation within the TDRP that claims under the policy may only be raised for a period of 12 months after the alleged breach (FN: see TDRP section 2.2) of the Transfer Policy (FN: see Section 1.15 of TDRP). For clarity, this does not prevent requestors, including ICANN Compliance, from requesting disclosure of these retained data elements for purposes other than TDRP, but disclosure of those will be subject to relevant data protection laws, e.g., does a lawful basis for disclosure exist. For the avoidance of doubt, this retention period does not restrict the ability of registries and registrars to retain data elements for longer periods.

Please refer to the Addendum to review the accompanying implementation note(s).

13. Choose your level of support of Recommendation #21:

Support Recommendation as written

Support Recommendation intent with wording change

Significant change required: changing intent and wording

Recommendation should be deleted

No Opinion

14. If your response requires an edit or deletion of Recommendation #21, please indicate the revised wording and rationale here.

For clarity, this does not prevent the identification of additional retention periods for stated purposes by the controllers, as identified and as established by the controllers, for purposes other than TDRP; This does not exclude the potential disclosure of such retained data to any party, subject to relevant data protection laws.

Preliminary Conclusion: Office of the Chief Technology Officer (OCTO) Purpose

Having considered this input, most members of the EPDP Team agreed that at this stage, there is no need to propose an additional purpose(s) to facilitate ICANN’s Office of the Chief Technology Officer (OCTO) in carrying out its mission. Most also agreed that the EPDP Team’s decision to refrain from proposing an additional purpose(s) would not prevent ICANN org and/or the community from identifying additional purposes to support unidentified future activities that may require access to non-public registration data.

15. Choose your level of support of the preliminary conclusion of the OCTO Purpose:

Support Conclusion as written

Support Conclusion intent with wording change

Significant change required: changing intent and wording

Conclusion should be deleted

No opinion

16. If your response requires an edit or deletion of the preliminary conclusion of the OCTO Purpose, please indicate the revised wording and rationale here.

Preliminary Conclusion: Feasibility of unique contacts to have a uniform anonymized email address

The EPDP Team received legal guidance noting that the publication of uniform masked email addresses results in the publication of personal data; therefore, wide publication of uniform masked email addresses is not currently feasible under the GDPR.

17. Choose your level of support of the preliminary conclusion on the feasibility of unique contacts to have a uniform anonymized email address:

Support Recommendation as written

Support Recommendation intent with wording change

Significant change required: changing intent and wording

Recommendation should be deleted

No opinion

18. If your response requires an edit or deletion of the preliminary conclusion on the feasibility of unique contacts to have a uniform anonymized email address, please indicate the revised wording and rationale here.

Propose changing “not currently feasible under the GDPR” to “not currently permissible under the GDPR” to more accurately reflect that this is a legal restriction on the publication of this data.

Preliminary Conclusion: Accuracy and WHOIS Accuracy Reporting System

Per the instructions from the GNSO Council, the EPDP Team will not consider this topic further; instead, the GNSO Council is expected to form a scoping team to further explore the issues in relation to accuracy and ARS to help inform a decision on appropriate next steps to address potential issues identified.

19. Choose your level of support of the preliminary conclusion for accuracy and WHOIS accuracy reporting:

Support Conclusion as written

Support Conclusion intent with wording change

Significant change required: changing intent and wording

Conclusion should be deleted

No opinion

20. If your response requires an edit or deletion of the preliminary conclusion for accuracy and WHOIS accuracy reporting, please indicate the revised wording and rationale here.

[21. Do you want to save your progress and quit for now?]

Recommendation #22: Purpose 2

The EPDP Team recommends the following purpose be added to the Phase 1 purposes, which form the basis of the new ICANN policy:

- Contribute to the maintenance of the security, stability, and resiliency of the Domain Name System in accordance with ICANN's mission.

22. Choose your level of support of Recommendation #22:

Support recommendation as written

Support intent of recommendation with edits

Intent and wording of this recommendation requires amendment

Delete recommendation

No opinion

23. Do you recommend a change to the wording of Recommendation 22? If so, please indicate proposed edits and rationale here.

[24. Do you want to save your progress and quit for now?]

25. Are there any recommendations the EPDP Team has not considered? If yes, please provide details below.

26. Are there any other comments or issues you would like to raise pertaining to the Initial Report? If yes, please enter your comments here. If applicable, please specify the section or page number in the Initial Report to which your comments refer.