

ICANN | GAC

Governmental Advisory Committee

22 June 2020

Keith Drazek,
GNSO Council Chair
ICANN

Subject: Next Steps on Key Policy Issues not Addressed in EPDP Phase 2

Dear Keith,

I write in regard to the ongoing consideration by the EPDP and the GNSO Council of issues critical to the future delivery, by ICANN and its Contracted Parties, of effective access to non-public gTLD registration data.

Since the ICANN60 meeting in Abu Dhabi, the GAC has laid out what governments believe are the critical public policy objectives of a future WHOIS system that is compliant with applicable data protection law. The GAC has done so in GAC Advice to the ICANN Board¹, in numerous contributions to the EPDP², and in consideration of input provided to ICANN by relevant Data Protection Authorities.

While the EPDP Team leadership has sought to complete Phase 2 of the EPDP by end of June³, despite the impact of the COVID-19 global pandemic on participants, we would like to reiterate our serious concerns with meeting a proposed deadline at the expense of not addressing the so called Priority 2 Items⁴, which had been identified as issues that would be addressed in the course of Phase 2⁵, including:

- Registration Data Accuracy
- Publication of Registration Data of Legal Entities
- Feasibility of unique contacts to have a uniform anonymized email address

¹ See in particular GAC Advice in the [GAC Abu Dhabi Communiqué](#) (1 November 2017) referencing the [GAC Principles Regarding gTLD WHOIS Services](#) (28 March 2007), the [GAC San Juan Communiqué](#) (15 March 2018), [GAC Panama Communiqué](#) (28 June 2018), [GAC Kobe Communiqué](#) (14 March 2019), and GAC Montréal Communiqué (6 November 2019). See also relevant discussion in the [GAC Barcelona Communiqué](#) (25 October 2018) and [GAC ICANN67 Communiqué](#) (14 March 2020).

² [GAC Input on EPDP Phase 1 Initial Report](#) (21 December 2018), [GAC Input on EPDP Phase 1 Final Report](#) (20 February 2019), [GAC/ALAC Statement on EPDP](#) (13 March 2019), [GAC response](#) to the ICANN Board's notification of the GNSO's approval of the EPDP Phase 1 Policy Recommendations (24 April 2019), [GAC Input on EPDP Phase 2 Initial Report](#) (24 March 2020), and [GAC Comment on the Addendum to the EPDP Phase 2 Initial Report](#) (5 May 2020).

³ According to the [latest estimate](#) included in a Project Change Request [sent](#) to the GNSO Council on 11 June 2020, this seems to be now being pushed to the end of July 2020.

⁴ As discussed in the [GAC Comment on the Addendum to the EPDP Phase 2 Initial Report](#) (5 May 2020).

⁵ See in particular: Footnote 6 to Recommendation 4 and Recommendation 17 of the EPDP [Phase 1 Final Report](#), and section 2.3 of the [EPDP Phase 2 Initial report](#).

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These issues are critical to the public interest. Not addressing these issues as part of the current EPDP risks an incomplete system that will lack key capabilities that promote public safety. Moreover, the failure to deal with these important issues throws doubt upon the legitimacy and effectiveness of the GNSO policy development process to address issues of importance to non-GNSO stakeholders and the public interest.

In particular, failing to provide recommendations aimed at ensuring the accuracy of gTLD registration data, including for the purpose for which it is processed in an SSAD, in light of the systemic inaccuracies highlighted by the RDS-WHOIS2 Review, risks fundamentally undermining the compliance of the system with data protection law.

The GAC understands that the GNSO Council advised the EPDP Team on these matters, and has just started considering options for addressing these critical issues in its 21 May 2020 meeting. The GAC notes a recent proposal by the Vice-Chair of the PDP Team⁶, suggesting combining a “reset” of the EPDP to address some issues, and a whole new process to consider the issue of data accuracy.

The GAC is looking forward to the GNSO Council’s discussion on these matters as it will inform the upcoming GAC deliberations during ICANN68. We hope that the GNSO Council will be able to reach decisions that provide assurances for a timely and satisfactory resolution of these issues in the near term in a manner that provides for substantial input by all interested stakeholders, including the GAC, at each phase, including identifying the scope and terms of reference of any subsequent PDP or other process.

We look forward to working together with the GNSO and the greater ICANN community on these important issues.

Best regards,



Manal Ismail
Chair, Governmental Advisory Committee (GAC)
ICANN

⁶ The EPDP Vice Chair [circulated](#) an [outline of possible next steps](#) to the GNSO Council (2 June 2020)