

15 October 2019

**Re: Request for Clarification on Data Accuracy and Phase-2 of the Expedited Policy Development (EPDP) on the Temporary Specification for gTLD Registration Data**

Keith Drazek  
GNSO Chair  
M. Göran Marby  
President and Chief Executive Officer, ICANN

Dear Göran:

Thank you for your letter of 21 June 2019, in which you seek the GNSO Council's clarification on whether the Phase 2 EPDP Team will be considering the subject of data accuracy, including projects that utilize gTLD registration data, in Phase 2 of its work.

The GNSO Council is aware that ICANN org needs further guidance on how and when the topic of data accuracy will be further considered in order to plan for projects that utilize gTLD registration data and effectively meet the needs of the ICANN community. As such, the GNSO Council is considering next steps on the policy questions within our remit. To date, our discussions have surfaced a range of views and generated some clarifying questions. We recognize there may be legitimate policy questions that would need to be addressed by a GNSO PDP, but the WHOIS ARS was not the result of a PDP, so its preparation and publication are not the result of GNSO policy recommendations and therefore not considered to fall under the responsibility of the GNSO Council. Similarly, other existing data accuracy requirements are the result of contractual negotiations and/or recommendations from others (such as Review Teams). It is important to treat the issues of data accuracy and the WHOIS ARS separately as we chart our path forward on resolving these open questions.

As we consider the appropriate process for addressing the broader question of data accuracy, we note that the EPDP Team (Phase 2) has the topic on its Priority 2 list, and it is likely to solicit further legal analysis on the topic of data accuracy, following from the [legal guidance](#) that was received during phase 1 on this topic. However, as you know, the EPDP Team is currently focusing on its priority 1 item, SSAD, which may mean that work on this topic is not imminent. Should ICANN org have any specific issues that you believe the EPDP Team should consider as it discusses data accuracy and impacts to the ARS, we invite you to bring these to the attention of the GNSO Council.

Further, so we can properly scope and delineate any future work, the Council requests additional clarity around the current challenges and obstacles ICANN Org faces in collecting and publishing the ARS reports and enforcing other accuracy requirements. Specifically, what is currently preventing ICANN Org from running ARS and what would be needed to enable the same functionality as pre-GDPR, recognizing that ARS is not the result of a Consensus Policy?

Following receipt of the necessary legal analysis from ICANN Org on data accuracy requirements and data processing, the Council would welcome an update from ICANN org on its views toward developing an update to the ARS for cases where ICANN itself is asserting its own purposes for processing data which is non-public and disclosed upon request. As ICANN is the coordinator of the global DNS, it must be able to process the data it needs to fulfill its mission under applicable law. As we all work towards a lawful solution for ARS, it would be interesting to know of any such preparatory work. We would also appreciate clarity on the expected publication date for the RDS Review Team Final Report so that its recommendations can inform, and be taken into account, in this important work.

Following receipt of the necessary legal analysis by ICANN Org, the Council would welcome ICANN Org's participation in an upcoming meeting to speak on the impact of the GDPR and EPDP Phase 1 recommendations on the enforcement and implementation of existing policies, procedures, and contractual provisions related to data accuracy. This engagement will be particularly valuable as we scope future work, and any legal analysis conducted by ICANN Org on these matters will inform the GNSO Council and the EPDP Team, as appropriate. In preparation for this discussion with the full Council, we would welcome a preliminary discussion with a subset of interested councilors to help understand what the actual issues are, if/how these can be addressed, and through what means.

The Council looks forward to further engagement on this topic.

Sincerely,

*Keith Drazek*  
*Chair, GNSO Council*