

Following the Council discussion on 20 August 2020, Council leadership would like to put forward the following proposal for consideration for dealing with the remaining priority 2 items. This proposal aims to strike a balance between the different viewpoints expressed concerning timing, while recognizing that there appears to be general support for the approach proposed by the small team. Also, by identifying immediate actionable steps, the aim is to ensure that when these initiatives kick off, they can hit the ground running and allow for those groups that consider these topics a priority to develop proposals with the objective to kickstart deliberations.

Topics	<ul style="list-style-type: none"> ● Legal vs. natural persons ● Feasibility of unique contacts to have a uniform anonymized email address
Approach	Reconvene EPDP Team to address these remaining topics
Instructions	<p>a) Legal vs. natural persons - the EPDP Team is expected to review the study undertaken by ICANN org (as requested by the EPDP Team and approved by the GNSO Council during Phase 1) together with the legal guidance provided by Bird & Bird as well as the substantive input provided on this topic during the public comment forum on the addendum and answer:</p> <ul style="list-style-type: none"> i. Whether any updates are required to the EPDP Phase 1 recommendation on this topic (“Registrars and Registry Operators are permitted to differentiate between registrations of legal and natural persons, but are not obligated to do so”); ii. What guidance, if any, can be provided to Registrars and/or Registries who differentiate between registrations of legal and natural persons. <p>b) In relation to feasibility of unique contacts to have a uniform anonymized email address, the EPDP Team is expected to review the legal guidance and consider specific proposals that provide sufficient safeguards to address issues flagged in the legal memo. Groups that requested additional time to consider this topic, which include ALAC, GAC and SSAC, will be responsible to come forward with concrete proposals to address this topic. This consideration is expected to address:</p> <ul style="list-style-type: none"> i. Whether or not unique contacts to have a uniform anonymized email address is feasible, and if feasible, whether it should be a requirement. ii. If feasible, but not a requirement, what guidance, if any, can be provided to Contracted Parties who may want to implement uniform anonymized email addresses.

	<p>For clarity, the GNSO Council is not directing any particular outcome on either topic, but as manager of the PDP, it is sharing its expectations with regards to which questions are expected to be addressed as part of the EPDP Team’s deliberations.</p> <p>Consistent with the PDP Manual, the GNSO Council does expect that all the required steps are followed in the consideration of these issues which may include further public comment on an Initial Report and a Final Report that would be considered an addendum to the EPDP Phase 2 Final Report.</p>
<p>Immediate actions</p>	<ol style="list-style-type: none"> 1. Communicate to the groups that have appointed members to the EPDP Team that the Council is expected to instruct the EPDP Team to further consider the topics of legal/natural and feasibility of unique contacts per the instructions above, as well as the expected timeframe. Request groups to: <ol style="list-style-type: none"> a) Commence process of confirming members availability and/or re-appointing members to work on these topics. b) Start developing proposals to address these topics, factoring in deliberations to date, that will allow the EPDP Team to kickstart deliberations on these topics when it reconvenes. 2. Council to further consider leadership question: <ul style="list-style-type: none"> ● Should Council liaison serve as interim chair as timeframe is limited? ● Should informal call for expression of interest be conducted amongst EPDP members? ● Should formal call of expression of interest for external chair be conducted?
<p>Subsequent steps</p>	<ol style="list-style-type: none"> 3. Once Council completes consideration of EPDP Phase 2 Final Report: <ol style="list-style-type: none"> a) Council to confirm go ahead for EPDP Team to reconvene by confirming / selecting leadership (liaison and/or chair). Note, the adoption of the EPDP Phase 2 Final Report does not automatically trigger the starting point as resourcing and bandwidth will also need to be factored in. b) Reconvene EPDP Team to commence deliberations. c) At the latest 3 months after reconvening, the Chair of the EPDP Team and GNSO Council Liaison to the EPDP will report back to the GNSO Council on the status of deliberations. Based on this report, which is expected to include an update on progress made and the expected likelihood of consensus recommendations, the GNSO Council will decide on next steps, which could include providing additional time for the EPDP to finalize its recommendations or termination of the EPDP if it is clear that no progress is being made or consensus is unlikely.

Topic	Accuracy and WHOIS Accuracy Reporting System
Approach	Formation of Scoping Team consisting of volunteers from GNSO SG/Cs as well as interested ACs
Instructions	<p>A scoping team would be tasked to “facilitate community understanding of the issue; assist in scoping and defining the issue; gather support for the request of an Issue Report, and/or; serve as a means to gather additional data and/or information before a request [for an Issue Report] is submitted”. This also aligns with the guidance provided in the recently published “Consensus Playbook” to assess the situation and right-size the problem as important steps to get to a common understanding and increase chances of a successful outcome. As part of this scoping phase, the scoping team is expected to consider:</p> <ol style="list-style-type: none"> 1. What has been the impact, if any, of GDPR and other privacy legislation on existing accuracy requirements (see, e.g., RAA sections 3.7.7.2, 3.7.8, WHOIS Accuracy Program Specification, and the WHOIS accuracy reporting system. Note, this may require further data gathering or study. Also consider whether a review of the impact on the Whois Data Reminder Policy (WDRP) and the Restored Names Accuracy Policy (RNAP) could/should be part of this scoping effort (see also Wave 1 Rec #27 report and assessment). 2. Based on the impact identified, determine what further work, if any, is required. This could include requesting an Issue Report (PDP) or another path (if Consensus Policy, or modifications to existing Consensus Policies, is not an expected outcome). <p>In order to help inform the scoping team’s deliberations, the scoping team is expected to review the recent correspondence on this topic:</p> <ul style="list-style-type: none"> ● https://gns0.icann.org/en/correspondence/marby-to-drazek-05dec19-en.pdf (5 Dec 2019) ● https://gns0.icann.org/en/correspondence/drazek-to-marby-15oct19-en.pdf (15 Oct 2019) ● https://gns0.icann.org/en/correspondence/marby-to-drazek-21jun19-en.pdf (21 June 2019) ● Bird & Bird legal advice, see here and here ● Substantive input provided on this topic during the public comment forum on the addendum

<p>Immediate actions</p>	<ol style="list-style-type: none"> 1. Communicate to GNSO SG/Cs as well as ICANN Advisory Committees that have expressed an interest in this topic the intent of the GNSO Council to launch a scoping team on this topic. Request groups to: <ol style="list-style-type: none"> a) Start thinking about members that have relevant knowledge and expertise that should join this effort once the scoping team launches. b) Start compiling relevant information and suggestions that would allow kickstarting the discussions on 1. and 2. once the scoping team is formed. 2. Request ICANN Org to develop a briefing document that outlines existing accuracy requirements and programs and the impact that GDPR has had on implementing / enforcing these requirements and programs that will help inform the scoping team’s deliberations. 3. GNSO Council to consider in the context of the Council Action / Decision Radar the appropriate starting time for this effort, factoring in other projects that are in the pipeline.
<p>Subsequent steps</p>	<ol style="list-style-type: none"> 4. Following confirmation under 3. by the GNSO Council, launch call for volunteers to form a scoping team (ideally, each interested group identifies 1-2 members to participate). Similar to other scoping teams, the team is expected to identify a lead from amongst its members. 5. Council to determine deadline by which scoping team is expected to deliver its findings and recommendations to the GNSO Council.