

# Motion on Recommendation 7, EPDP Phase 1

GNSO Council Meeting

12:00 UTC 17 December 2020

# What does the motion seek to do

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Provide GNSO Council Input on the Intent of Recommendation 7:

- Rec 7 should be implemented as written and intended
- Thick Whois Transition Policy was modified and if there is a conflict, Rec 7 prevails

*“...And I think we all also agree that, you know, the impact of these recommendations needs to be translated or over write [sic] any existing policies that may no longer apply in the light of, you know, these recommendations, not taking away the ability from the GNSO to undertake additional policy work on some of these issues should they consider that desirable.” (2019-01-29 EPDP Team call #40)*

# “We have never done this before.”

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- What’s Rec #7?
- How did we get here?
- Where are we in the the policy and Implementation life cycle?
- Roles & responsibilities?

# What does Rec 7 say

## EPDP Team Recommendation #7.

The EPDP Team recommends that the specifically-identified data elements under “[t]ransmission of registration data from Registrar to Registry”, as illustrated in the aggregate **data elements workbooks**, must be transferred from registrar to registry **provided an appropriate legal basis exists and data processing agreement is in place**. In the aggregate, these data elements are:

Transfer of Data Elements from Registrar to Registry:

Data Elements (Collected & Retained?)	Transfer Log(s)
Domain Name	Required
Registrar Whois Server*	Required
Registrar URL*	Optional
Registrar Registration Expiration Date*	Optional
Registrar*	Required
Registrar Abuse ID*	Required
Registrar Abuse Contact Email*	Required
Registrar Abuse Contact Phone*	Optional
Registrar*	Optional
Domain Status(es)*	Required
Registrant Fields	
• Name	Optional
• Organization	Optional
• Street	Optional
• City	Optional
• State/province	Optional
• Postal code	Optional
• Country	Optional
• Phone	Optional
• Phone ext	Optional
• Fax	Optional
• Fax ext	Optional
• Email	Optional
Technic Fields	
• Name	Optional
• Phone	Optional
• Email	Optional
Name Server(s)	
Name Server IP Address(es)	
• Additional data elements as identified by Registry Operator in its registration policy, such as (i) status as Registrar Operator Affiliate or Trademark Licensee (MICROSOFT); (ii) membership in community (ICANN); (iii) licensing, registration or appropriate permits (PHARMACY, LAW) place of domicile (NYC); (iv) business entity or activity (LAWFIRM, BOTT)	Optional

Required   
Optional 

# Rec #7 and “Thick Whois Policy”

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Rec #7:

Transfer of registrant contact information is **optional**, depending on whether the registry operator in question determines it has an appropriate legal basis to require the data and a data processing agreement is in place.

“Thick Whois Policy”:

Transfer of registrant contact information from registrars to registry operators is **mandatory**

# EPDP Team's Approach

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## *“3.4 Data Elements Workbooks*

*The EPDP Team realized the need to review each of the data elements collected, the purpose for its processing, and the legal basis for that data processing. This work resulted in the creation of the Data Elements Workbooks, which bring together purpose, data elements, processing activities, lawful basis for processing and responsible parties. For the Data Element Workbook for each purpose identified by the EPDP Team, see [Annex D](#).” (p.30, EPDP Phase 1 Final Report)*

2019-01-29 EPDP Team call #40

AC Chat: *“Forget about thick / thin. We are creating something new. “*

# How did we get here (1/2)

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Thick Whois  
PDP Final  
Report  
2013

Temp Spec  
May 2018

Council  
Chartered  
EPDP  
July 2018

# How did we get here (2/2)

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EPDP Phase  
1 Final Report  
Feb 2019

Council  
Adoption  
March 2019

Board  
Approval  
May 2019



# Letter from ICANN Board to GNSO Council

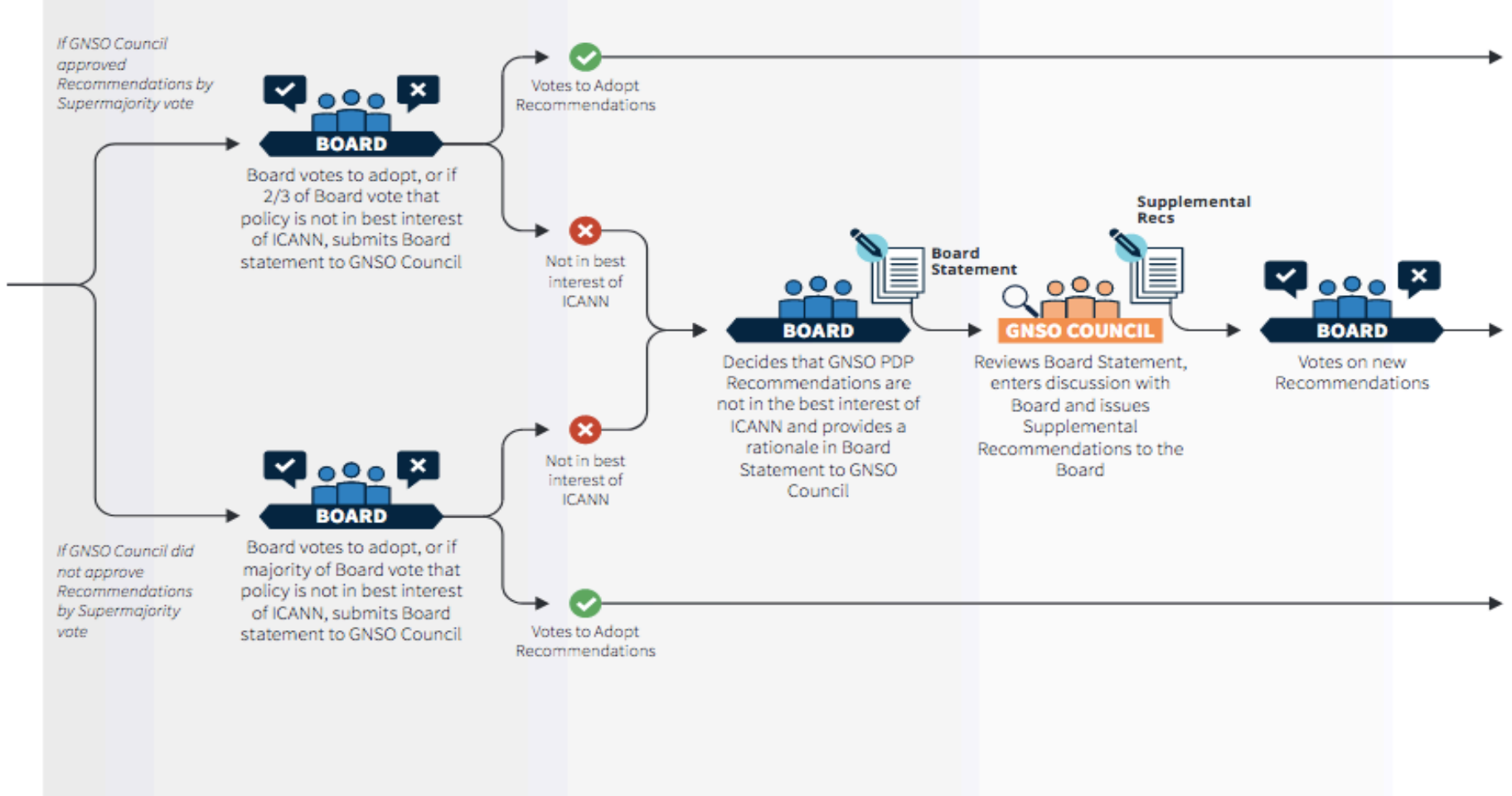
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<https://www.icann.org/en/system/files/correspondence/botterman-to-drazek-2-11mar20-en.pdf>

At page 4:

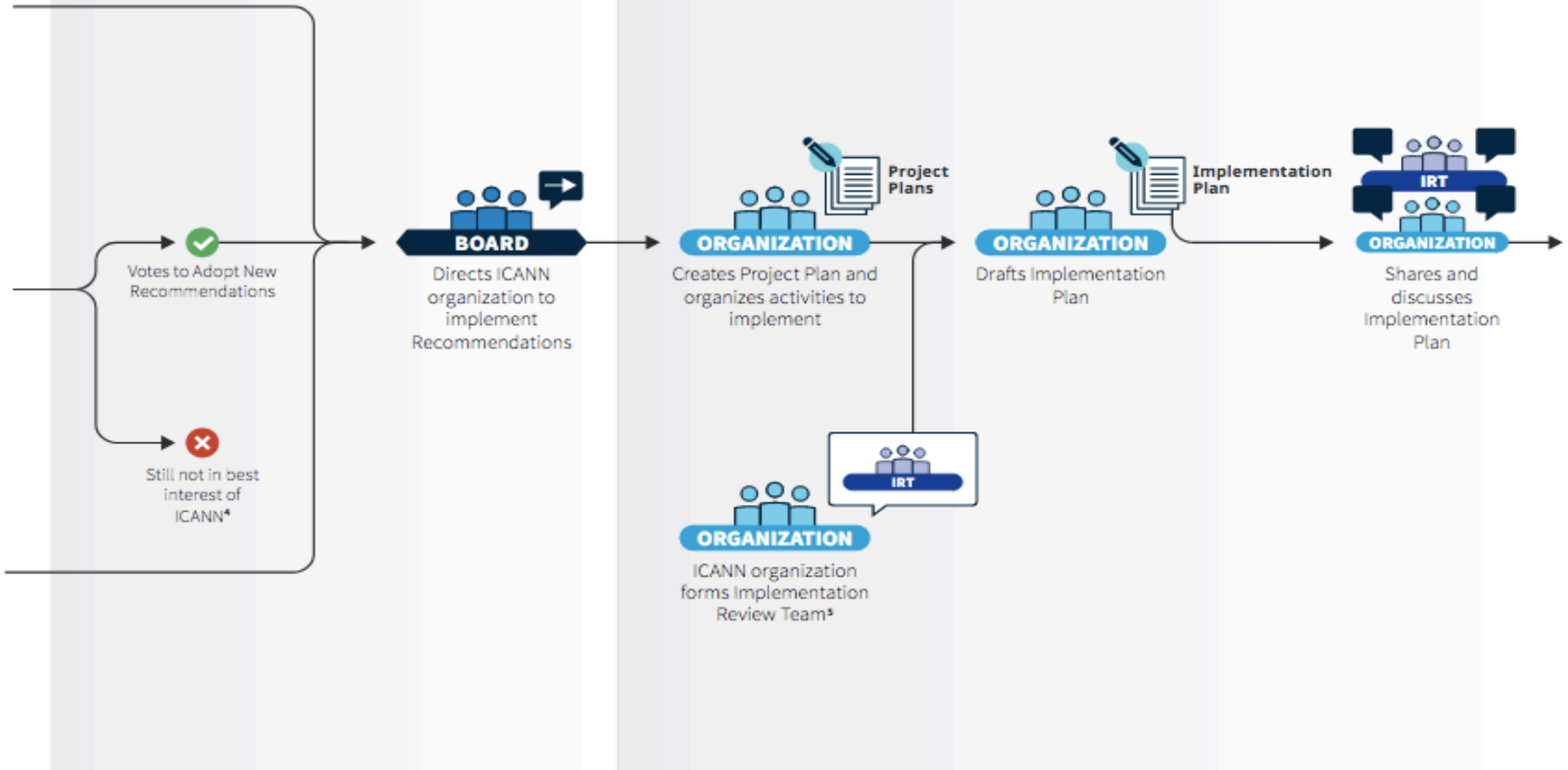
***“Absent a clear statement in new consensus policy recommendations that the new policy is intended to supercede (in whole or part) requirements in existing consensus policies, the Board’s position is that existing policy requirements will continue to stand. If a policy recommendation is unclear as to its intended impact on an existing ICANN consensus policy, this may be a basis to conclude that its adoption would not be in the best interests of the ICANN community or ICANN org, pursuant to Annex A, Section 9, of the ICANN Bylaws. In such case, the Bylaws provide for Council and Board discussions and potential Supplemental Recommendations from the Council.”***

## 6 Board Vote cont'd



## 6 Board Vote cont'd

## 7 Planning



# Purpose 1B-PA2

## Lawfulness of Processing Test:

Processing Activity:	Responsible Party: <small>(Charter Questions 3k, 3l, 3m)</small>	Lawful Basis: (Is the processing necessary to achieve the purpose?)
<p><b>1B-PA1:</b> Collection of registration data to establish registrant's rights in a domain name string</p> <p>(Charter Question 2b)</p>	<p>ICANN Registrars Registries</p>	<p>6(1)(b) for Registrars</p> <p>This is a 6(1)(b) purpose for Registrars because it is necessary to collect registrant data to allocate a string to a registrant. Without collecting minimal registrant data, the contracted party has no way of tracing the string back to registrant and is not able to deliver its side of the contract.</p> <p>6(1)(f) for Registries and ICANN</p> <p>This is a 6(1)(f) purpose for Registries that require the collection of data to fulfill their terms, conditions and policies, this is a 6(1)(f) purpose.</p> <p>(NOTE: that registries collection of the data occurs only when the data is disclosed to them by the registrar as per 1B-PA2)</p>
<p><b>1B-PA2:</b> Transmission of registration data from Registrar to Registry</p> <p>(Charter Questions 2c, 2d, 2e, 2i)</p>	<p>ICANN Registrars Registries</p>	<p>Registries <b>may</b> direct a Registrar to provide a limited data set, (i.e. data set that differs from the from the Minimum Data Set as required as per the relevant consensus policy), where such a Registry Operator , due to varying business model and legal interpretations of obligations, require an alternate data set to fulfill, <b>in their subjective evaluation, their specific policies, terms and conditions</b> (for example, for the purpose of administering the application of a Registry Acceptable Use Policy (AUP)) in cases where such policies exist.</p> <p>The disclosure of the data by the registrar to the registry is</p>

# 1B-PA2 Data Elements

EPDP Team Final Report

21 February 2019

Data Elements (Collected & Generated*)	Collection 1B-PA1	Transmission 1B-PA2	Disclosure 1B-PA3			
Creation Date*						
Registry Expiry Date*						
Registrar Registration Expiration Date*	O-Rr	O-CP	O-CP			
Registrar*	R	R	R			
Registrar IANA ID*	R	R	R			
Registrar Abuse Contact Email*	R	O-CP	O-CP			
Registrar Abuse Contact Phone*	R	O-CP	O-CP			
Reseller*	O-Rr	O-CP	O-CP			
Domain Status(es)* <sup>63</sup>	R	O-CP	O-CP			
Registry Registrant ID*						
Registrant Fields						
<input checked="" type="checkbox"/> Name	R	O-CP	O-CP			
<input checked="" type="checkbox"/> Organization (opt.)	O-RNH	O-CP	O-CP			
<input checked="" type="checkbox"/> Street	R	O-CP	O-CP			
<input checked="" type="checkbox"/> City	R	O-CP	O-CP			
<input checked="" type="checkbox"/> State/province	R	O-CP	O-CP			
<input checked="" type="checkbox"/> Postal code	R	O-CP	O-CP			
<input checked="" type="checkbox"/> Country	R	O-CP	O-CP			
<input checked="" type="checkbox"/> Phone	R	O-CP	O-CP			
<input checked="" type="checkbox"/> Phone ext (opt.)						
<input checked="" type="checkbox"/> Fax (opt.)						
<input checked="" type="checkbox"/> Fax ext (opt.)						
<input checked="" type="checkbox"/> Email	R	O-CP	O-CP			
2nd E-Mail address						

# Role of ICANN Board

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## ICANN Bylaws

### Annex A-1: GNSO Expedited Policy Development Process

<https://www.icann.org/resources/pages/governance/bylaws-en/#annexA1>

## Section 7. Implementation of Approved Policies

Upon a final decision of the Board adopting the EPDP recommendations, the Board shall, as appropriate, **give authorization or direction to ICANN staff to implement the EPDP Recommendations**. If deemed necessary, the Board shall direct ICANN staff to work with the GNSO Council to create a guidance [sic] implementation plan, based upon the guidance [sic] recommendations identified in the Final EPDP Recommendation(s) Report. (Emphasis added)

# Role of GNSO Council

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## Consensus Policy Implementation Framework

[https://www.icann.org/uploads/ckeditor/CPIF\\_v2.0\\_2019CLEAN.pdf](https://www.icann.org/uploads/ckeditor/CPIF_v2.0_2019CLEAN.pdf)

### III. Roles and Responsibilities

- A. GNSO Council: ...Once policies are adopted by the Board, the GNSO Council serves as a resource for staff who have questions about **the background or intent** of the policy recommendations during its implementation. **The GNSO Council may continue to provide input on the implementation of a policy, for example, if the GNSO Council believes that the implementation is inconsistent with the policy.**

# Role of the Implementation Review Team

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## Implementation Review Team (IRT) Principles & Guidelines

<https://www.icann.org/resources/files/1201611-2016-08-23-en>

### III. IRT Role

A. As provided in the PDP Manual, the IRT is convened to assist staff in developing the implementation details for the policy **to ensure that the implementation conforms to the intent of the policy recommendations.**

B. **The IRT is not a forum for opening or revisiting policy discussions.** Where issues emerge that may require possible policy discussion, these will be escalated using the designated procedure as outlined in section V.E (see hereunder).



# GNSO Operating Procedures

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[ANNEX 2: Policy Development Process Manual](https://gns0.icann.org/sites/default/files/file/field-file-attach/annex-2-pdp-manual-24oct19-en.pdf)

<https://gns0.icann.org/sites/default/files/file/field-file-attach/annex-2-pdp-manual-24oct19-en.pdf>

## 16. Amendments or Modifications of Approved Policies

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Approved GNSO Council policies that have been adopted by the ICANN Board and have been implemented by ICANN Staff may only be amended by the initiation of a new PDP on the issue.