

14 March 2023

RE: GNSO Registration Data Accuracy Scoping Team – Request to ICANN org  
Sébastien Ducos, ICANN Generic Names Supporting Organization (GNSO)

Dear Sébastien,

In response to your [letter dated 1 December 2022](#) on behalf of the GNSO Council, requesting updates from ICANN org on outstanding issues related to registration data accuracy and the pending work of the [Registration Data Accuracy Scoping Team](#), we would like to provide an update on ICANN org's work on scenarios that have been identified to review the accuracy of registration data and the data protection questions that arise from these scenarios.

As you will recall, four scenarios were identified and shared with the Scoping Team:

- *Scenario 1:* Analyze publicly available registration data for syntactical and operational accuracy (as was done previously in the WHOIS ARS program but note that now, much or most of that data has been removed from public view as a result of GDPR).
- **Scenario 2: Proactive Contractual Compliance audit** of registrar compliance with registration data validation and verification requirements. The purpose of this exercise would be twofold: (1) to determine whether registrars are complying with gTLD registration data validation and verification requirements in the WHOIS Accuracy Program Specification of the Registrar Accreditation Agreement (RAA), and (2) to address identified instances of non-compliance with the WHOIS Accuracy Program Specification requirements to validate and verify contact information, and to take action in the event that a registrar fails to remediate an identified deficiency.
- **Scenario 3: Analyze a (representative) sample of full registration data** provided by registrars to ICANN org. The purpose of this exercise would be to validate and verify gTLD registration contact data. This would include analyzing public and non-public data to determine whether the contact information is legitimate and likely to correspond to a real person or organization. This assessment would provide statistical data on the level of accuracy of the gTLD registration contact data, but it should be noted that this assessment will not confirm the identity of the registrant. This information will serve as a foundation for ICANN community policy discussions concerning whether or not additional accuracy requirements should be imposed with the ultimate objective of furthering the security and stability of the DNS.
- *Scenario 4:* Registrar registration data accuracy survey (voluntary).

ICANN org has explored each of the high-level scenarios and identified Scenarios 2 and 3 as being most adequate. Consideration of Scenario 4, which was one of the recommendations of the Scoping Team, has been paused by the GNSO Council as it awaits feedback from ICANN

org on whether/how it anticipates registration data will be requested and processed in the context of measuring accuracy, as well as until such time the DPA negotiations between ICANN org and Contracted Parties are completed, or after six months have passed, whichever happens first.

ICANN org has already conducted a Data Processing Impact Assessment (DPIA) on Scenario 2 (e.g., *the Contractual Compliance Audit*). There is a compelling argument that this scenario falls within the existing remit of ICANN's org competencies under the Registrar Accreditation Agreement (RAA). Regarding the processing of nonpublic gTLD registration data, because it would be limited to cases of re-performance (separately test the format of the sampled registration data using some carefully selected phone/address/email validation tools, to validate the efficiency of the process applied by the registrars), it would also comply with the GDPR, subject to the implementation of some additional safeguards that were identified in the DPIA. However, it is important to note that although such an audit would assess 1) registrars' compliance with gTLD registration data validation and verification processes, and 2) testing validation (format) of either the registrant's telephone number or email address, it would not ensure the accuracy (veracity) of the registrant's data in general.

ICANN org is working on the DPIA for Scenario 3 (e.g., *the sample assessment*). The main difference between Scenario 2 and Scenario 3 is that the DPIA exercise for Scenario 3 is more theoretical in nature, focusing on whether it would be possible to conduct a proactive assessment under the GDPR, despite current limitations under ICANN's existing agreements. Therefore, additional contract or policy provisions would likely be necessary if registrar participation is required. We expect to conclude this DPIA exercise shortly after ICANN 76.

Please note that neither of these scenarios would confirm the identity of the registrant nor ensure accuracy (veracity) of contact data.

Regarding the engagement with the European Data Protection Board (EDPB), the DPIA performed by ICANN's Legal team confirms a sufficient legal basis to proceed with a Contractual Compliance audit (Scenario 2), that the audit would not result in high risk for the data subject, and that ICANN Org is able to implement sufficient measures to mitigate the risk (cf. Art. 36 (1) GDPR). Therefore, outreach efforts would focus on Scenario 3 (*the sample assessment*). Based on the results of Scenario 3's DPIA, ICANN org would follow up on the [letter to the European Commission on 2 June 2022](#), acknowledging their lack of response and informing them of the scenarios as described above. In this letter, ICANN org would reiterate the request for the Commission to take up the matter of registration data accuracy assessment with the EDPB and in particular Scenario 3, in accordance with Article 64(2) GDPR. This time the request to the European Commission would be more targeted and based on the outcomes of the DPIAs.

We look forward to continued discussions with the GNSO Council concerning this effort.

Best regards,



Brian Gutterman

ICANN org liaison to the GNSO Registration Data Accuracy Scoping Team