Letter from EPDP 2 to ICANN Board on Standardized System for Access/Disclosure (SSAD)

Date: 10 October 2019

To: ICANN Board
CC: Goran
CC: GNSO Council

Dear ICANN Board,

We are writing to you at the suggestion of the EPDP 2 Board liaisons. The working group is at a critical junction which requires clear input from the Board in order to further our work to produce realistic, timely, implementable policy recommendations. Specifically, we seek to understand the Board's position on the scope of operational responsibility and level of liability (related to decision-making on disclosure of non-public registration data) they are willing to accept on behalf of the ICANN organization along with any prerequisites that may need to be met in order to do so.

Our goal is to avoid policy recommendations that cement the current situation, where requests for non-public registration data are handled on a case-by-case basis by the registry/registrar in a non-standardized and decentralized manner. We are considering several models for a Standardized System for Access and Disclosure (SSAD), including (but not limited to) the Unified Access Model (UAM) developed by the Technical Study Group. All of the proposed "centralized" SSAD models presume that ICANN will assume an operational role, and, depending upon the model, some degree of responsibility and liability for decisions to disclose non-public data to a third-party requester.

In some model, ICANN (or its designee) would approve accrediting bodies, or function as an accrediting body themselves. Some proposed models establish ICANN (or its designee) as the entity that will conduct an initial validation of disclosure requests prior to relaying this request to the appropriate registry or registrar. All of the proposed "centralized" SSAD models presume that ICANN will assume some sort of operational role. In some models, ICANN could assume varying degrees of responsibility and liability for decisions to disclose non-public data to third-party requesters.

We recognize that our questions are clouded by the uncertainty associated with constructing a model that is compliant with the General Data Protection Regulation (GDPR) and other privacy laws. We are also aware of the work of ICANN org (via the "Strawberry Team") to engage with data protection authorities to better understand the liability involved in decisions to disclose non-public registration data. As noted above, our goal is to produce realistic, timely, and implementable policy recommendations, and our work requires Board input on the level of involvement and amount of liability they are willing to assume for ICANN org, along with any prerequisites that may need to be met in order to do so.

While some team members felt that in absence of that input, the EPDP must shift its focus to policy recommendations aimed at improving the existing distributed model in which each registry and registrar independently evaluates, applies its own balancing test, and responds to queries on a case by case basis, while some others felt that absent this input the prospect of consensus on a system for standardized access is unlikely.

Thank you,

EPDP Phase 2 working group members