



EUROPEAN COMMISSION

DG Communications Networks, Content & Technology
DG Migration and Home Affairs
DG Justice and Consumers

The Directors General

Brussels,
cnect.ddg1.e.3

Sent by email:
goran.marby@icann.org

**Subject: Input on the Proposed Temporary Specification for gTLD
Registration Data**

Dear Mr. Marby,

In the context of our recent exchanges relating to the ongoing WHOIS reform, in particular the European Commission's letter of 29 January, followed by the technical input we provided on 7 February, we wish to take this opportunity to further contribute to this important process.

In view of ICANN's plan to adopt a Temporary Specification for gTLD Registration Data ahead of 25 May 2018, we would like to encourage ICANN to maintain a close dialogue with European Data Protection Authorities (DPAs) to improve and complete the temporary specification and its outstanding elements as soon as possible.

The system that will be in place after 25 May should ensure full compliance with the European Union General Data Protection Regulation (GDPR), while also addressing governance of and access to WHOIS data for legitimate purposes, including for achieving public policy objectives such as assistance to law enforcement investigations.

In order to avoid enforcement action and allow the Article 29 Working Party to provide some assurance in this regard, it will be important for ICANN to provide a clear timeline and show progress towards completion of the process.

The Commission will continue to play a facilitating role in this dialogue, which aims precisely at ensuring compliance with the GDPR.

At the same time, while it is clear that a complete interim model will not be in force on 25 May, we urge ICANN to keep working beyond that date in an iterative way to incorporate changes on the basis of this ongoing dialogue, as well as input from the community.

In the Proposed Temporary Specifications (as revised on 14 May), we note that a number of key questions have now been included in the Annex titled "Important Issues for Further Community Action", leaving them open for the community to consider possible implementation. These issues are crucial and need to be resolved as quickly as possible, so we call on ICANN to take full responsibility for their resolution, while of course encouraging the involvement of the community.

Governments in the GAC have also provided substantive advice. We invite you and the ICANN Board to take such advice into account rather than rejecting it on the assumption of its incompatibility with DPAs' guidance. We understand – as expressed by ICANN in recent phone calls – that the main issue is the implementation of the advice within the short time frame. Therefore, we encourage ICANN to focus on finding ways to reconcile that advice with practical requirements during the iterative process proposed by the GAC.

Finally, we invite ICANN to consider and possibly integrate models for the accreditation system currently being developed by relevant stakeholders (e.g. by the business community).

ICANN should take this opportunity to come up with a model that reflects not only compliance with the GDPR, but a genuine commitment to the spirit of the GDPR. At the same time, ICANN should be proactive, and ensure that the system will actually operate to mitigate risks of potential or actual harm to people and the security and stability of the Internet. This is a core part of ICANN's mission.

We believe that in a post-IANA transition world, ICANN plays a key role as the “guardian” of the domain name system at the core of the Internet and is responsible for ensuring the security, stability and resilience of some key technical Internet functions. Revising the WHOIS model gives ICANN the opportunity to show leadership and demonstrate that the multi-stakeholder model actually delivers.

We understand that our offices are currently trying to find a suitable date for a phone conference in the near future. We are looking forward to a constructive discussion on these matters.

Yours sincerely,

[eSigned]
Roberto Viola
Director General
DG CONNECT

[eSigned]
Paraskevi Michou
Director General
DG HOME

[eSigned]
Tiina Astola
Director General
DG JUST