

ICANN GDPR Proposed Models Redaction Proposal

EXECUTIVE SUMMARY:

The ICANN Redaction Model is proposed as an interim solution while ICANN Org and the community develop a long-term replacement to WHOIS. If adopted, registries and registrars do not need to change how WHOIS is accessed, displayed or stored. Instead, information relating to an identified or identifiable natural person that is subject to GDPR would be redacted and never displayed in WHOIS.

Under this model, the burden of complying with GDPR would largely shift to ICANN Org, which would administer a program to enable registrants to redact their information. ICANN Org would also create a certification program to enable access to the information relating to an identified or identifiable natural person that is subject to GDPR for various authorized purposes. This program would be funded by those seeking credentials to access this information. Registrants seeking to avail themselves of redaction would not be charged a fee beyond the standard ICANN fee that applies to all registrations.

GENERAL DESCRIPTION:

- Natural persons wishing to be excluded from WHOIS would submit an application to ICANN Org
 - ICANN Org or ICANN verification agent performs a verification on the natural person using one of the methods allowed in a ccTLD administered in the EU:
 - .uk
 - .eu (match their territorial reach)
- Verified data submitted directly to escrow agent of registrar by verification agent
 - ICANN Org publishes lists of the domain names for which registrants have chosen redaction
 - Redaction only applies to information relating to an identified or identifiable natural person that is subject to

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- GDPR (see example below)
- Contactability ensured by: standard email -- ie **<domainname.com>@icannredactionservice.org**, with a forwarding service
- Data revealed for legitimate purposes, with a certification process associated with the types of purposes;
- Registrars/Registries don't need to have tiered access or implement RDAP— they instead check against the ICANN registry
- WHOIS remains the same (access through Port 43/web based), but data relating to an identified or identifiable natural person that is subject to GDPR appears as ICANN REDACTION in the relevant fields
- ICANN Org manages release of the verified data through a certification program, or when presented with purposes for which there is no certification available
- Registrant contracts with ICANN Org to enroll in the redaction service and consents to release for the identifiable purposes. ICANN Org charges its standard fee for the domain name registration.

BASIS UNDER GDPR:

- Performance of Contract: ICANN Org now has direct contract with registrant
- Informed Consent: Registrants have a real choice to be excluded from WHOIS through ICANN redaction, thereby reducing the risk that consent is invalid. Registrants now have three choices:
 - 1- consent to public display of WHOIS
 - 2- Privacy/Proxy Services offered by commercial services
 - 3- ICANN redaction
- Data Minimization - Pseudonymisation furthers data minimization (Article 25)
- Reduction of Risk: Pseudonymisation under GDPR Recital (28), Article 25 (Data Protection by Design), Article 32 (Security of Processing)

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ADVANTAGES:

- WHOIS changes are minimal, except for enhanced verification
- Natural persons who opt out of WHOIS still are contactable through the email forwarding service that ICANN Org could operate or outsource
- Those who want privacy never have their personal information included in the public database
- Escrow has true data
- ICANN Org becomes the gatekeeper through credentialing process and evaluation of other legitimate purposes, but does not maintain a WHOIS database; data continues to reside at registrar & escrow service
- Risk is minimized for registries/registrars, who don't need to make judgement calls on purposes or credentials
- Registries/registrars minimize cost and operational changes.
- ICANN Org minimizes risk as well – the process for verifying personal data would be based on what is already acceptable in EU and following the process utilized by a ccTLD administered in the EU.

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PURPOSE¹:

1. Assisting law enforcement authorities in investigations and in national and international laws, and in combating against abusive use of internet communication technologies;
2. Assisting businesses, other organizations, and users in combating fraud, complying with relevant laws, and safeguarding the interests of the public;
3. Combatting infringement and misuse of intellectual property; and
4. Contributing to user confidence in the Internet as a reliable and efficient means of information and communication by helping users identify persons or entities responsible for content and services online

PROCESS FLOW:

Step 1: Self-selection by an applicant – Is the registrant a natural person or a legal entity?

Step 2(A): Natural Person Process:

- Registrar provides a clear process that:
 - Imparts to the registrant the contactability requirement for maintaining a domain name registration
 - Informs that WHOIS is a public database that is used for<restate authorized purposes listed above>
 - Notifies the registrant of the choice to have information publicly displayed for these purposes or chose an alternative method of contactability
- Registrant is queried regarding the choice between having personally identifiable information (First Name, Last Name, Telephone number, email address, street address) included in the public database, or alternatives:
 - Privacy/Proxy Services
 - ICANN Org's Redaction Service

¹ These purposes track the GAC WHOIS Principles, although other purposes could be included, such as those identified by Hamilton in its memos.

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The registrant may withdraw consent at any time.

- If registrant elects to include the information in the public database, a more detailed consent process follows, where the registrant consents to each of the detailed purposes listed above. There would also need to be a process defined to allow for the withdrawal of consent.

Step 2(b) Legal Entity:

- Registrar provides a clear process that:
 - Imparts to the registrant the contactability requirement for maintaining a domain name registration
 - Informs that WHOIS is a public database that is used for<restate purposes identified above>
 - Asks the registrant to provide the data elements for WHOIS <list elements>, and note the ability to list a role instead of the name of an individual
 - Presents the choice between having information publicly displayed for these purposes or an alternative method of contactability:
 - Privacy/Proxy Services
 - (Two sub-options, in the event any of the fields that potentially could contain information relating to an identified or identifiable natural person that is subject to GDPR for the authorized purposes):
 - Publication in WHOIS based on consent
 - ICANN Redaction Service only for the referenced personal data elements
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Step 3 ICANN Redaction Service:

- Customer creates an account with ICANN Org/agrees to Terms of Service, that describes how the ICANN Redaction Service works and consents to reveal for legitimate purposes <GAC's WHOIS Principles>
- Customer can be pre-validated to enable quick registration

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- ICANN Org or a third party validates the information using a method already deployed by a ccTLD administered in the EU, but at a minimum validates email, phone number, and cross-field validation under the RAA, matching against UPU database
- When ready to register name, registrant asks ICANN Org for authorization code for redaction service
- Registrant given an authorization number to submit to the registrar
- Registrar checks the authorization number against database ICANN Org maintains
- True data submitted to escrow service already used by registrars

WHOIS Record for <domainname.org>shows:

Natural Person:

Registrant name: ICANN Redaction
Address: ICANN Redaction
Los Angeles, CA, USA

Telephone number: ICANN redaction
Email address: domainname.org@icannredaction.org - email forwarded

Legal Entity: COMPANY NAME
Address: 33555 Main Street
Los Angeles, CA 9053
EMAIL address: domainname.org@icannredaction.org - email forwarded
Telephone number: ICANN Redaction

- ICANN Org Administers the Credential Program for access to the true data:
 - Trademark Clearinghouse holders – accredited for IP infringement claims

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- Security Professionals – accredited for security, stability, technical issues
- LEA- ICANN Org to identify ways of identifying LEA
- Other legitimate purposes – ICANN Org could develop ways to give credentials to other purposes consistent with GAC principles
- Credentials require credentialing fee, ICANN Org contract, declaration of purpose, possibility of revoking for abuse, etc.
- Credentials are taken to registrar, which reveals, but does not publish, the data to the credential holder
- Credential fees pay for redaction system/no additional fees are charged to registrants for service
- Credentials for “super users” that enable more expansive searching and volume access require a bond and commitment to audits and compliance checks in contract with ICANN Org