Appdetex Proposed GDPR Compliant WHOIS Model
ICANN Template Questions

1. Analysis of how the model accommodates existing contractual obligations while reconciling them with the GDPR, including:

    a. A description of the proposed change and how it differs from the current implementation;

    Appdetex, as a corporate ICANN accredited registrar, is proposing a WHOIS model that is compliant with the GDPR through conformance to the already documented, disclosed, and negotiated RDS recommendations set forth in the EWG report. The already vetted, comprehensive EWG report recommends abandoning today's WHOIS model of providing every user with the same entirely anonymous public access to (often inaccurate) gTLD registration data. Instead the EWG recommends a next generation RDS that collects, validates and discloses gTLD registration data for permissible purposes only.

    b. Identification of how the model impacts current ICANN contractual obligations and specification of the contract provision or policy that is impacted by the cited law;

    The registration agreement and other contractual obligations will be impacted.

    c. Identification of the applicable section(s) of the GDPR;

    Recitals 19, 32, 50

    Article 4, 5(1)(b) of the GDPR, Article 6 and Article 13(1)(c) and (d) and Article 17

    d. A description of how this change will comply with the applicable law.

    The processing of data of Natural persons located in the EU will comply with the GDPR

2. Changes to the collection, storage, display, transfer, and retention of data.

    Data of natural persons within the EU will be impacted by this proposed model. Collection, storage, display, transfer and retention of data will all adhere to the

GDPR. The registrar will segregate the registration data subject to the GDPR and treat that data in the proscribed model. Registrars or registries depending on the gTld must create an access process for request of the data. Registrars may also offer a proxy service as long as they adhere to the request process outlined by the PPSAI final report.

3. Who will be impacted by the change and how (for example: registrants, users of WHOIS data, other contracted parties).

   All parties involved in the registration process, registrants, registrars, registries, resellers and users of the whois data will be impacted by the requirements of the GDPR when the registration is subject to the GDPR.

4. Interoperability between registry operators and registrars.

   May impact transfer of data to a registry.

5. How users with a legitimate need for data will request and obtain data if it is no longer available in public WHOIS.

   A minimum public data set will be available for each domain name registration by a registrant that is a natural person within the EU. This data includes registrar, registry, generated data, country of registrant and anonymized email address. All other registrations will continue to provide public access to the full WHOIS record.

   A list of defined purposes for the use and request of data from the EWG report is provided in the model. A requestor must agree to provide a validated live email address and consent to the access provider terms of service.

6. Whether data handling will be uniform or if there will be variation based on things such as "natural person" vs. an organization, physical address of a point of contact, location of the registry operator or registrar, etc.

   The initial registration flow will request information that will dictate how the data is processed. Data handling will be based on registrant self-identification of status as a natural person within the EU and consent.

   Legal persons are not impacted by the GDPR.

7. Whether this model has been reviewed by a data protection authority. If so, indicate which data protection authority, when, and any details of their response.
   No review done of this proposed model but we are also requesting that ICANN submit the full Expert Working Group's final report to the Hamilton law firm for a legal assessment of the model described in the report to determine its compliance with the GDPR. If there are any deficiencies to the EWG model, the assessment should identify

the elements of the model that are not in compliance so that corrective measures can be readily proposed in any supplemental filing.

8. High-level description of any changes to other agreements beyond the Registry Agreement and Registrar Accreditation Agreement (for example: Registry-Registrar Agreement, Data Escrow Agreement, Registration Agreement, Registrar Reseller Agreement, Privacy Policies, etc.).

   There may be changes necessary given that the data may be impacted by the GDPR.

9. If applicable, how this differs from other models and whether you endorse any other model. If you endorse another model, please identify whether you endorse the entire model or specific sections.

   This model is similar to the COA model in that it relies on purposes for collection and access to data but relies on the EWG report for those purposes and is more explicit about categorization of the data encompassed in the WHOIS record.