

**Contracted Parties House GDPR Discussion Group
Input to ICANN on Implementation Timeline for Interim GDPR Compliance Model
March 26, 2018**

Introduction

In response to ICANN Staff's request during ICANN 61, the Contracted Parties House GDPR Discussion Group has prepared the following document to outline the timeline on which the Contracted Parties will be able to implement ICANN's proposed GDPR Compliance Model. The Contracted Parties recognize that there are multiple elements of the proposed Compliance Model that are not yet finalized, and the outcome of those elements could have additional impacts on the timeline. We have attempted to capture as many of those potential divergences as possible. Please note that our inclusion of various potential outcomes does not constitute an endorsement of any particular outcome at this time.

It should also be noted that Contracted Parties will have their own individual timelines, priorities, constraints, and development cycles. The below is provided as general guidance, and the specific timelines and implementation choices should not be considered applicable to any particular registry or registrar.

Part 1: Items that Contracted Parties Need from ICANN before May 25 - Prior to Implementation

The Contracted Parties would like to point out that prior to undertaking any implementation work, we will need clarity from ICANN on the requirements of the final ICANN model, planned enforcement of RA and RAA provisions post-May 25, a clear process for handling RRA changes, and guidance on adjustments that may be needed to data escrow agreements. Predictability regarding how these items will be managed can help ensure a uniform approach to compliance across registries and registrars in the near-term, while we all continue to work toward longer-term solutions.

With that in mind, we request that ICANN commit to working along the following timeline:

- Registries and Registrars agree on template RRA amendment language – March 26-April 11
- Submit to ICANN for use in its Compliance Model – April 13
- Final ICANN Compliance Model – April 16
 - The model should include all amendments, addenda, waivers, etc. that pertain to GDPR compliance for all contracts and agreements with registries and registrars and provide clear guidance on issues 1-4 below.
 - RA Amendment/Waiver
 - RAA Amendment/Waiver
 - RRA Amendments

- Data Escrow Agreement Amendments

- Contracted party review of Compliance Model and amendments – April 16-25
- Finalized documentation – May 1
- Contracted parties implementation – May 1-25

Part 2: Timeline Estimates to Implement ICANN’s GDPR Compliance Model, Once Finalized

In the following section, we outline the time it will take Contracted Parties to implement ICANN’s proposed Compliance Model, noting that the final decisions made about various elements of the model could impact the timeline. Registries and registrars differ greatly in terms of systems, business models, and available personnel; while these projections capture expectations for when a reasonable share of Contracted Parties could implement the proposed model elements, these timelines will similarly vary greatly. This outline should not be taken as an assurance that all parties will have implemented the model within the specified period.

A. Elements of Compliance Model that are Unlikely to Impact the Timeline

There are two components of the Compliance Model that, if they remain unchanged from the 28 February proposal, are unlikely to have a meaningful impact on the time it would take Contracted Parties to implement the Model:

- 1. Applicability of the Model:** If Contracted Parties have the option to apply the Compliance Model across all registrants and are not required to treat the data of natural vs. legal persons differently, then no additional time will be needed to implement this element. However, if ICANN changes the Model to require Contracted Parties to differentiate between legal and natural persons, or between processing of data within the EEA and outside of it, then such a requirement would extend the timeline for Contracted Parties by at least six months and would also require a significant investment of resources.
- 2. Data Retention Period:** If the existing data retention requirements remain in place (with the ability for Contracted Parties to obtain waivers where needed), then no additional time will be needed to implement this element of the Compliance Model.

B. Elements of Compliance Model that could be Implemented by May 25

The following elements of the proposed Compliance Model will require time for the Contracted Parties to develop and implement. Depending on the final decisions on individual elements, they may be able to be implemented by May 25, in time for the GDPR Compliance deadline. Decisions may also impact Contracted Parties’ independent assessments of whether the proposed model complies with GDPR and decisions on whether to forgo implementation of some aspects of the model. Note that this is a non-exhaustive list.

1. **Data Collected by Registrars:** The current proposed Compliance Model requires registrars to continue to collect full “thick” data from registrants, but there has been feedback from community members that continuing to collect full thick data for multiple contacts could run afoul of the data minimization principle of the GDPR.
 - a. Option A: Collect full thick data (as exists today) - **No impact on timeline**
 - b. Option B: Collect only Registrant data and replace Tech-C, Admin-C, and Billing-C contacts with placeholder data - **Approximately 3 months**
 - c. Option C: Eliminate Tech-C, Admin-C, and Billing-C contacts via changes to EPP - **Approximately 9 months (incl. making requisite systems changes, rolling out to resellers, allowing resellers time to adapt API integration, and 90-day notice of EPP changes)**

2. **Data Transferred to Registry:** Again here, the current proposed Compliance Model requires registrars to continue to transfer full “thick” data to the registries. The data transferred to registries may vary based on the outcome of element 1 (Data Collected by Registrars), above.
 - a. Option A: Transfer full thick data (as exists today) - **No impact on timeline**
 - b. Option B: Transfer Registrant data only and replace Tech-C, Admin-C, and Billing-C contacts with placeholder data - **Approximately 3 months**
 - c. Option C: Eliminate Tech-C, Admin-C, and Billing-C contacts via changes to EPP - **Approximately 9 months (incl. making requisite systems changes, rolling out to resellers, allowing resellers time to adapt API integration, and 90-day notice of EPP changes)**

3. **Data Transferred to Escrow Agent**
 - a. The primary impact on the timeline will be if Contracted Parties have to switch Data Escrow Agents to a GDPR-compliant provider - **Approximately 3 months from when a compliant Escrow Agent is identified and approved**

C. Elements of Compliance Model that will Require Additional Implementation Time

The following elements of the proposed Compliance Model will require additional development and implementation time that will stretch beyond May 25. Note that this is a non-exhaustive list.

4. **Email Field: Anonymized Email vs. Web Form**
 - a. There is an outstanding question over whether a replacement for the registrant email in the public WHOIS data will need to be provided by both registries and registrars. It has also not yet been resolved what the preferred replacement mechanism would be and how registrars would prefer to offer such a mechanism, or whether all contracted parties should implement the same mechanism.
 - b. Steps required:

- i. Determine the best mechanism to replace the registrant email address - **Approximately 1 month**
- ii. Operationalize and implement new mechanism - **Approximately 3 months**

5. Public WHOIS - Changes to Data Displayed

- a. Opt-In Mechanism: the proposed Compliance Model includes a requirement that registrants that want to publish their data in the public WHOIS must be allowed to opt in to doing so. Registrars will have to create a way to obtain this consent. This will require time to develop internal policies as well as time to develop and implement a mechanism for registrants to opt in. The following options assume that the EPP disclosure attribute can be leveraged, which would require registries and registrars to implement EPP changes, but not create additional EPP extensions.
 - i. Option A: opt-in mechanism exists only at registrars - **Approximately 9 months (incl. time to implement across resellers)**
 - ii. Option B: opt-in mechanism must also carry over to registries - **Approximately 6 months (incl. 90-day notice of EPP changes and required operational testing and evaluation), at least part of which would take place after the registrar timeline in (i) due to dependencies (total timeline for i. and ii. is 15 months)**

6. Public WHOIS - Access Mechanism to Public Output

- a. System adjustments would be required to support changes to public access.
 - i. Option A: Port 43 and web-based WHOIS for public access - **Approximately 3 months**
 - ii. Option B: RDAP for public access - **Approximately 6 months from when the RDAP specification/profile is finalized (incl. time to sunset existing WHOIS and transition to RDAP)**

7. Providing Access to Non-Public WHOIS - Authentication

- a. Creating a centralized credentialing system will take significant time, as it will require input from across the ICANN community. The timeline for that effort will be measured in quarters (or possibly years), rather than months, due to the complexities inherent in disclosing data across jurisdictions and other factors. As a result, this timeline assumes that individual contracted parties will need to handle credentialing in the meantime in order to continue providing access to non-public WHOIS data.
- b. Steps required:
 - i. Each registry and registrar independently develops internal policies for what parties can get access, what data elements those parties can access once credentialed (recognizing that unlimited access to all WHOIS records for every credentialed parties is not likely to be compliant under GDPR), procedures for processing requests, etc. - **Approximately 9 months**

- ii. Operationalize new policies/procedures - **Approximately 3 months following development of internal policies (12 months total for i. and ii.)**

8. Providing Access to Non-Public WHOIS - Technical Systems

- a. System changes would be required to support credentialed access to non-public data. Contracted Parties will need to develop interim authentication mechanisms on an individual basis (until such a time that a centralized accreditation system is established).
 - i. Option A: Web-based WHOIS for non-public access - **Approximately 5 months**
 - ii. Option B: RDAP for non-public access - **Approximately 6 months from when the RDAP specification/profile is finalized (incl. time to sunset existing WHOIS and transition to RDAP)**