

From: "Dirk Krischenowski | dotBERLIN GmbH & Co. KG"

Date: Monday, January 29, 2018 at 10:50

To: "gdpr@icann.org"

Subject: [Ext] dotBERLIN comment to ICANN and eco proposed compliance models

Dear Sirs,

hereby we comment to the

dotBERLIN Comments to ICANN Model 1,2 and 3

We appreciate that ICANN has setup three different models that aim to provide compliance with GDPR for contracted parties. We welcome that ICANN recognizes the contractual obligation of Registries to maintain accurate data of all Registrants in the gTLD(s) they manage.

We would like to comment on the proposed model 2 – publication of email address of the admin and tech contact:

In domain names of generic TLDs, e.g. .com, .org or .info, it is quite common that the data of Registrant (Owner) and the Registrant (Admin) are identical. For .de in Germany it is often the opposite: The Registrant (Owner) and the Registrant (Admin) mostly differ. In the .de namespace it is quite common that the Registrant (Admin) is an individual while the Registrant (Owner) is a company in case of registrations made by companies. This also applies to legacy and new gTLDs in Germany including geoTLDs like .berlin. Therefore, the publication of the email address of the Registrant (Admin) in the ICANN model would include personal data and thus not comply with the GDPR. Especially in new gTLDs we have a similar situation for the tech email contact data.

Furthermore it is not possible to differ between registrations of organizations and individuals. SMEs and freelancer like lawyers, accountants, doctors and consultants regularly register a domain name on their personal name and not on their company or business name. Thus, organizational data are often not available and even in the case they are available, a differentiation between company and personal data is impossible.

A way forward based on model 2 would include

- that no email addresses of the admin and tech contact are displayed, and
- that there is no differentiation between legal entities and individuals

While the model 2 focuses currently on the display of data, we assume that in future revisions of the model a proposal for the data processing will be added.

We think that the models 1 and 3 do not fit to our requirements as too many data are displayed.

dotBERLIN Comment to the eco Model

We generally support the efforts of eco to build a solid GDPR model with input of the Internet community. We contributed to the various versions of the eco Playbook model. However, we think that the eco model strongly focuses on the interests of registrars and open gTLD registries and neglects the requirements of gTLD registries with registration requirements. This applies especially to the proposal, that registrars do not provide registries with the registrant data anymore.

More than 200 gTLD registries have registration requirements, they make up nearly half of all 550 generic TLDs. They have registration requirements, e.g. due to contracts with governments (e.g. geoTLDs), community obligations (e.g. .eco, .organic) or security requirements (e.g. .banks, .insurance). If registrant data are not provided to Registries by Registrars, they cannot fulfill their contractual obligation to their stakeholders and towards ICANN. Therefore, the eco Playbook model is not a reasonable way forward related to the transfer of registrant data from registrars to registries.

Best regards,

Dirk

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