



Seoul, March 2, 2018

Mr. Goran Marby
ICANN President and CEO
goran.marby@icann.org; gdpr@icann.org

ICANN's Interim Whois model

Dear Mr. Marby,

The European Chamber of Commerce in Korea (ECCK) is the pre-eminent association of European companies conducting business in or related to Korea. Representing the common voice of the European business community, the ECCK functions as a key communication channel to relevant counterparts.

In light of the importance of intellectual property and its proper enforcement, ECCK operates an Intellectual Property Rights (IPR) Committee. This Committee has the three-fold objective of fostering communication and cooperation with relevant stakeholders, facilitating the exchange of information between industry and government counterparts, and raising public awareness of the importance of protecting IPR.

These objectives also encompass activities to curb the counterfeit industry. Counterfeit products are harmful to businesses, consumers, and society at large as they reduce business and government revenue, stifle innovation, hinder economic growth, endanger consumers and result in job losses. In addition, there is growing evidence of a link between counterfeit products and the financing of criminal syndicates.

In order to curb these devastating effects, the IPR Committee cooperates with all stakeholders to actively facilitate enforcement activities against all segments of the counterfeit industry.

Over the past decade the amount of the transactions made through online sources has increased globally. In Korea alone, the total value of all products sold online has risen fivefold from 2007 to 2017. The counterfeit industry has keenly followed such trend and has also expanded to the online space in order to distribute their illegitimate products to (unsuspecting) consumers.

Against this background, we would like to raise our concerns about the impact of a potential decision to remove electronic contact data from the publicly accessible Whois information. Numerous companies rely on Whois information in the regular course of their operation, in particular when it comes to ending the sale of counterfeit products online. The availability of a registrar-verified registrant email address is of critical importance for these anti-counterfeiting activities and its removal from publicly accessible Whois information will essentially render enforcement, by both private and public actors, impossible.

Unfortunately, many companies have only recently come to realize that the information to be contained in the Whois is currently under consideration. In light of such, we would like to echo requests by others that a final decision with regards to the information to be contained in the Whois is made after ICANN61 in Puerto Rico, in order to enable the widest possible engagement from all stakeholders.



We note that the input from the EU Commission itself highlights the need for a proportionate approach, limited to data covered by the regulation rather than an across-the-board application to all data. This is in line with both the input from ICANN's Governmental Advisory Committee, ICANN's own mission of openness, and is further consistent with an interim solution that does not usurp existing policy development processes.

The EU Commission and the UK National Crime Agency, amongst many others, have highlighted that Whois data that can be cross-compared is a vital resource for identifying various types of fraud, including counterfeiting, and that the private sector is a vital and proactive part of that effort. Processing for these purposes and the continuing ability of both private and public actors to conduct this work needs to be part of any chosen model, as set out in the letter to you from the Coalition for Online Accountability of February 16, and the IPC/BC letter to the Art. 29 Working Party of February 8.

Legitimate purposes under the regulation could include the community defense mechanism that the current Whois represents. A searchable dataset of contact email addresses is vital for this purpose.

We appreciate your consideration of the abovementioned points in reaching a suitable interim WHOIS model.

We remain with best regards,

A handwritten signature in black ink that reads 'Batenburg' in a cursive, slightly slanted script.

Sven-Erik Batenburg
Director of Legal & International Affairs
ECCK