

From: Thomas Rickert

Date: Wednesday, January 10, 2018 at 15:56

To: "gdpr@icann.org"

Subject: [Ext] Comment on Hamilton memoranda

Dear GDPR team at ICANN,
this comment is made on behalf of eco Internet Industry Association.

In response to Göran's blog post, we would like to offer a few comments on the Hamilton memoranda.

With a separate e-mail, we will submit a proposal and the most important comment we have to make is that the updated version of the eco GDPR Domain Industry Playbook is available and part of the proposal to ICANN. The playbook includes comment and responses to the Hamilton memoranda including footnotes.

In addition to that, we would like to make the following comments:

Part 3

ad 2.4.3.

In our view, the term „contract“ is not to be construed too strictly. According to Plath Art. 6 Rn. 9 contract can mean any obligation, so it does not have to be a contract and according to our assessment, there is a legal relationship between the registrant and the registry with respect to the domain name registration, although it is not a contract.

ad 2.6.2.

We would appreciate if Hamilton could make a distinction between European and Non-European LEA when it comes to legitimate interest in the context of GDPR:

ad 2.7.3., 2.7.6 and 2.7.7.

Please note that we have expanded on the point of certification for disclosure in the updated version of the playbook, see Part C.

We support the notion of certifying and allowing gated access for IP lawyers e.g. since these are organs of the judiciary and can therefore be trusted only to use data for clearly defined purposes on behalf of their clients, who - such as in the case of assessing whether UDRP requirements are met - would be entitled to obtain the data.

We would be more than happy to discuss these and other points with Pontus and Thomas from Hamilton and ICANN's representatives directly.

Kind regards,
Thomas Rickert

on behalf of eco Internet Industry Association