

April 21, 2018

Article 29 Working Party
European Commission
Email: JUST-ARTICLE29WP-SEC@ec.europa.eu

Dear Members of the Article 29 Working Party:

I write on behalf of Kingston Technology, a manufacturer which sells and supports flash memory products and other computer-related memory products.

Kingston Technology appreciates the opportunity to provide comments and express our concerns with respect to ICANN's proposed GDPR-compliant interim model for WHOIS output.

Kingston Technology values the importance of privacy and the protection of personal data of individual citizens. Individual privacy, however, also needs to be balanced with concerns for public safety, the combat against criminal and illegal behavior, protecting consumers, and also ensuring the security and stability of the Internet ecosystem. The WHOIS database plays a critical role in addressing these concerns.

We believe the proposed interim WHOIS model put forward by ICANN to comply with the GDPR (sometimes referred to by ICANN as the "Cookbook" or "Calzone" model) does not strike the appropriate and proportional balance between privacy interests and the public interest. The key corrections that we ask be made are:

- 1) Maintain the registrant's e-mail address, as provided by every registrant, publicly accessible since this has been identified by law enforcement, cybersecurity experts, health and child safety organizations, and IP rightsholders as the key piece of data to assist with investigations—particularly those requiring immediate action to protect against public harm.
- 2) Ensure that access to masked/hidden data of registrants by law enforcement and third parties with legitimate interests does not "go dark" on May 25 if a third-party accreditation system is not yet in place and operational. This can be accomplished by enforcing the current terms of ICANN's Registration Accreditation Agreement with registrars or, alternatively, permitting additional personal data elements of registrants to remain publicly accessible until a third-party accreditation system is operational. The key additional elements to remain public would (in addition to registrant e-mail address, state/province and country) be registrant name and

registrant city.

- 3) Tiered or layered access for accredited parties needs to accommodate “reverse WHOIS lookups” so that once registrant information associated with a domain engaged in abusive, malicious or illegal activity is obtained, that information may be used to search quickly and readily for other domains associated with the same registrant information in order to mitigate and prevent further abusive, malicious or illegal activity.

All of the above requests are consistent with, and indeed mirrored, in the consensus advice delivered by the Government Advisory Committee (which includes all 28 EU Member States as well as the Commission, and is comprised of more than 170 entities) to ICANN in the communique dated March 15, 2018 in San Juan, Puerto Rico at the conclusion of the ICANN 61 meeting.

Thank you very much for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Cindi Kipers". The signature is written in a cursive, flowing style.

Cindi Kipers

Compliance Analyst

Kingston Technology Company