

January 28, 2018

To: [gdpr@icann.org](mailto:gdpr@icann.org) re: ICANN-Proposed Compliance Models

I concur with EFF's submitted comment [here](#) (pdf) which provides a modified "Model 3" and also note the following:

[17 Dec 2018 Letter from Manal Ismail \[GAC\] to Göran Marby | ICANN.org](#) (pdf)--Issue: WHOIS Compliance with GDPR--excerpt (highlighting added):

The GAC is concerned that deferment of WHOIS compliance enforcement gives no motivation to stakeholders to find a global solution that is GDPR compliant while offering effective and timely access to WHOIS information for legitimate purposes. A number of GAC members recognise that deferment could be a temporary solution to avoid conflicting obligations, as identified in a number of legal opinions. However, the GAC fears that deferment will lead to a fractured WHOIS by introducing a broad range of WHOIS service models, threatening public policy and safety interests. Therefore, ICANN should provide further guidance to the community and the contracted parties in particular on the "one model" approach that you outlined in the call and that we welcome. This approach was not obvious to us from the announcement, nor from the subsequent guidance.

[The Internet: 10 predictions for 2018 | DiploFoundation | diplomacy.edu](#) by Jovan Kurbalija: "1. **GDPR: Data in the centre of digital politics** ....

"The **GDPR is likely to have a global impact in two main ways**. First, the **EU is extending its jurisdiction globally** by requesting that the data of European citizens be managed according to European regulation, wherever data processing takes place. **Secondly, other countries may follow suit**. With a high Internet penetration of 500 million citizens with strong purchasing power, the EU is the most lucrative Internet market in the world. The EU has the digital 'hard power' to negotiate with Internet companies on an equal footing." (emphasis added)

[The Looming Battle over the GDPR and the Purpose of Whois in ICANN | InternetGovernance.org](#): "... *The Hamilton report has not identified a viable way forward, neither long term nor short term. The real solution to this problem is to identify a purpose of Whois that is consistent with ICANN's limited mission ... the analysis in the Hamilton report actually points away from a complicated layered model to continued public access to a far more limited set of data. This is the easier, and most legally correct path to follow. That is where ICANN should go.*"--Professor Milton Mueller

[Europe's GDPR Meets WHOIS Privacy: Which Way Forward? | Electronic Frontier Foundation | EFF.org](#): "... There are other cases in which it makes sense to allow members of the public to contact the owner of a domain, without having to obtain a court order. But this could be achieved very simply if ICANN were simply to provide something like a CAPTCHA-protected contact form, which would deliver email to the appropriate contact point with no need to reveal the registrant's actual email address [or even name]. There's no reason why this couldn't be required in conjunction with **ICANN's Model 3**, to address the legitimate concerns of those who need to contact domain owners for operational or business reasons, and who for whatever reason can't obtain contact details in any other way."

**How Badly Broken Is WHOIS? 15+ New Spam Emails, 9 Robocalls, 6 Spam texts within 24 hours of registering a domain [name] | DomainNameWire.com.**

Respectfully submitted,

John Poole, domain name registrant and editor, [DomainMondo.com](#)