

From: jonathan m
Date: Monday, July 16, 2018 at 18:54
To: "accred-model@icann.org"
Cc: "gdpr@icann.org" >
Subject: [Ext] Re: [Accred-Model] Codes of conduct

All,

Any model that doesn't take into account for transparency of processing that a data subject has the right to typically object and freeze the processing is not compliant with GDPR. I think the registrar as a controller must also have the right to object. That doesn't mean that the processing won't eventually continue if it is compelling and overrides the rights and freedoms of the individual but subject to Chapter 7 of the GDPR.

When safety is a concern, then as long as the data subject knows which supervisory authority is overseeing the code of conduct under which the request is being made, it's possible to protect the identity of the requestor. This should be relatively rare.

Not every legitimate interest outweighs the rights and freedoms of the data subject, and a privacy impact assessment is required. Not every legitimate interest is entitled to the same weight under GDPR, and the risks and severity of harm to the person must be considered especially when certain interests at stake aren't the same as those of the controller.

We need RDAP to accommodate these concerns. When law enforcement has legitimate interests, they can use the same RDAP tier of access, but when pursuing a criminal offense or investigation, a different model of access must be accommodated under the LED etc.

Ignoring these issues won't make them go away. I hope that truly consensus-building voices participate in the EPDP, because it's time we stop trying to keep

Whois to the greatest extent possible and instead design the next generation to be better—more accurate, with more accountability and integrity but also consistent with data protection laws and internationally recognized norms. It makes sense to generally treat all people — regardless of where they reside, with the same inherent rights and freedoms that European laws are attempting to protect.

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