

**From:** Domain Name Request

**Date:** Wednesday, March 14, 2018 at 07:56

**To:** "'gdpr@icann.org'"

**Subject:** [Ext] FW: Proposition de feed-back pour ICANN concernant le modèle intérim des données whois en conformité avec la RGPD

Dear Sir / Madam,

We refer to Göran Marby's post dated 28 February 2018 on the ICANN blog ([https://www.icann.org/news/blog/data-protection-privacy-update-seeking-input-on-proposed-interim-model-for-gdpr-compliance\[icann.org\]](https://www.icann.org/news/blog/data-protection-privacy-update-seeking-input-on-proposed-interim-model-for-gdpr-compliance[icann.org])). We also refer to our previous feedback dated 17 January 2018 concerning the Proposed Interim Models for Compliance with ICANN Agreements and Policies in Relation to the European Union's General Data Protection Regulation – For Discussion (see enclosure).

We have now carefully read the Proposed Interim Model for GDPR Compliance - Summary Description, which was posted on [https://www.icann.org/en/system/files/files/proposed-interim-model-gdpr-compliance-summary-description-28feb18-en.pdf\[icann.org\]](https://www.icann.org/en/system/files/files/proposed-interim-model-gdpr-compliance-summary-description-28feb18-en.pdf[icann.org]) and we have noted that ICANN was going to develop an accreditation program in consultation with the GAC in order to determine who could access the non-public whois data. The document mentioned: "Under this approach, certified user groups, such as law enforcement agencies and intellectual property lawyers, could access non-public WHOIS data based on pre-defined criteria and limitations that would be established as part of the formal accreditation program." In that regard, we wish to draw your attention to the fact that a substantial part of trademark owners' budgets are already used to protecting their trademarks. If they may only obtain the whois records of a litigious domain name by seeking help from a lawyer that has access to the non-public data, we expect the cost to considerably increase.

We therefore believe that other entities should be given the opportunity to become accredited and obtain the necessary access to non-public data. As already mentioned in our feedback of 17 January 2018, some ccTLD registry

operators, which already restrict the data that are publicly visible, have already implemented procedures for allowing any legitimate third party to get access (at low cost or no cost at all) to non-public data related to a domain name when they can evidence a legitimate interest to the concerned domain name. Such procedures have been in place for some time now and have been working very well. Furthermore, the .name registry operator, which has been restricting the publicly available data for legal reasons since it started to do business, has been allowing legitimate third parties to enter into an Agreement with the registry operator and get a full access to the whois data. The safest solution is a solution that already exists and has proven working well.

We thank you in advance for taking this additional feedback into consideration and stay at your disposal, should you have any question.

Best regards,

Steve Gobin  
IP Expert