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Strasbourg, 29 January 2018

Dear Mr Chalaby and Mr Marby,

The initiative taken by ICANN in order to develop models for WHOIS that are in compliance with the EU GDPR data protection rules while at the same time serving important public interests, such as public safety, are to be welcomed.

The Council of Europe is the depository of a range of relevant treaties and, therefore, has a particular interest to ensure that privacy rights are reconciled with the needs of criminal justice authorities.

Some of these treaties have a scope beyond its 47 member States and include the Data Protection "Convention 108" (currently 51 Parties and 4 States invited to accede) and the Budapest Convention on Cybercrime (currently 56 Parties and 14 signatories or States invited to accede).

The Council of Europe is participating in the work of ICANN and is an observer in the Governmental Advisory Committee. The Committee of Ministers, as the governing body of the Council of Europe, in 2015 adopted a declaration<sup>1</sup> which gives the organisation the mandate "to ensure that human rights and the rule of law, as well as the Resolution on human rights and transnational corporations and other business enterprises, adopted by the United Nations in June 2011, are referred to and considered by ICANN with regard to its policies and procedures".

<sup>1</sup> Declaration of the Committee of Ministers on ICANN, human rights and the rule of law (3 June 2015): [https://wcd.coe.int/ViewDoc.jsp?p=&Ref=Decl\(03.06.2015\)2&direct=true](https://wcd.coe.int/ViewDoc.jsp?p=&Ref=Decl(03.06.2015)2&direct=true)

Given the fact that the analysis of the proposed models requires a complex analysis, in the short time available it has not been possible to come to a unique position within the Council of Europe which would benefit the support of its two most concerned committees. The two contributions annexed to this letter may nevertheless provide a meaningful input for ICANN and its different constituencies to the finding of an acceptable solution.

The Committee of Convention 108 and the Cybercrime Convention Committee stands ready to bring in its expertise and experience to help ICANN find the best possible solution to address safety needs in line with other human rights and rule of law requirements.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'Jan Kleijssen', written in a cursive style.

Jan Kleijssen