

Dear Steve,

Thank you for your questions, and we know since submitting them, these have been responded to through the participation in a range of discussions over the past weeks. However, we also wanted to get back to you here.

As you may recall from previous messaging, our aim with each of the models was to maintain the existing WHOIS to the greatest extent possible. Each of the models will require some form of tiered access. The community seems to have reached consensus on this concept, acknowledging that there are some legitimate uses for non-public registration data.

The community has raised questions regarding how the implementation of one of the models relates to ICANN's existing policies. ICANN org's work to address the contractual compliance implications because of the new law does not replace existing policy development work, including that of the Policy Development Process on the Next Generation gTLD Registration Directory Services to Replace WHOIS.

See below for responses to the questions you submitted. As noted above, we realize these have already been answered during the session the IPC/BC held earlier this week, discussions with the NCPH, and the webinar, as well. For additional reference, please check out our most recent [blog](#).

1. In publishing its ICANN-Proposed Compliance Models for Community Discussion[icann.org], ICANN org states:

"We are seeking your input on the proposals. From that input either variations or modifications to one of these models will be identified at the end of January for the path forward. To ensure we reach this goal, we need your feedback by 29 January 2018."

From this, it is unclear whether the ICANN community is meant to provide feedback to ICANN's three models only, or also to the additional five community-proposed models for GDPR compliance. The BC would like additional clarity on whether there will be any evaluation of the five community-proposed models through this current process. If not, will these be reviewed and considered by both ICANN and the community?

[ICANN org has asked for the community to provide their input on the Proposed Interim Models for Compliance with ICANN Agreements and Policies in Relation to the European Union's General Data Protection Regulation as well as the community-proposed models, and since receiving this input has also had a wide range of discussions, including the recently held webinar. The ICANN-proposed models, the community-proposed models and discussions, communications from the range of participants in the comments received, information from the Hamilton analyses, range of input and correspondence will all be considered to determine a final interim model. In doing so, and in light of the input offered, variations or modifications to one of the ICANN-proposed models may be identified for the path forward.](#)

2. Contrary to stated ICANN processes and procedures ICANN org has opened a short window of time for comments (17 days), and comments don't appear to be publicly displayed. Will ICANN both extend the comment deadline and make comments publicly accessible?

Consistent with ICANN's commitment to transparency and accountability, all comments received thus far have been posted on the "Legal Analyses, Proposed Compliance Models, & Community Feedback" section of our Data Protection/Privacy page. Any future comments and inputs on the models will be posted here as well.

Regarding timeline, as noted in discussions as well including with the IPC and BC, given that numerous contracted parties and ICANN Org may be affected by this legislation, it is important we are moving swiftly to provide an interim solution that will allow compliance with both the law and ICANN's contracts on a temporary basis until the ongoing Next Generation gTLD Registration Directory Services Policy Development Process Working Group puts forth its comprehensive recommendations or new policy. In parallel, the GNSO Council is revisiting the Procedure by forming a Drafting Team to consider revising the Procedure's available triggers.

3. As ICANN org states, "one of these models will be identified at the end of January for the path forward." Comments are due January 29, so is ICANN assuming it will take only 2 days to thoroughly consider community input before it makes a final decision?

ICANN org is reviewing comments as they are submitted and carefully considering those alongside the proposed models that have already been submitted by various stakeholders, and is working to provide an interim proposal as soon as possible. As noted in the CEO's Blog on 25 January, given the input we have received, while we intended to identify a model and path forward by the end of January, it became clear that more time is needed to accommodate community requests for additional time and dialogues.

4. In describing the approach for developing its proposed interim compliance model, ICANN org states that:

"[t]he selected model will not replace the multistakeholder policy development and implementation activities that are underway, including ... updates to ICANN's Procedure for Handling WHOIS Conflicts with Privacy Law ..."

The BC requests additional clarification on what development and/or implementation activities are underway for this cited policy. And, more importantly, we request an explanation as to why no part of this policy has been followed by ICANN to-date in addressing compliance with the GDPR.

The BC looks forward to your prompt response on our questions, preferably in advance of the January 29th deadline for comments on the proposed models.

The “policy development and implementation activities” reference is in regard to (1) the GNSO PDP on gTLD Registration Data Services to determine if and why a next-generation RDS is needed, and if needed what it would look like; and (2) the Procedures for Handling RDS/WHOIS Conflicts with Privacy Law, which the GNSO Council is considering forming an Implementation Advisory Group to review in light of the comments and inputs received from the community when the review was kicked off by ICANN org in May 2017. It is important to note that this temporary measure is not intended to supersede existing policies.

Please let us know if you have any further questions or concerns.