

High-Level Summary of Requirements: Proposed Temporary Specification for gTLD Registration Data

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FOR DISCUSSION PURPOSES

This document provides a high-level summary of the key requirements of the Proposed Temporary Specification. The requirements are separated into two categories:

1. Existing requirements that are not changing and will remain in place
2. Modified requirements for GDPR

This document is not intended to capture all requirements, but rather just the key requirements of the Proposed Temporary Specification for discussion purposes.

1. Existing requirements that are not changing and therefore not reflected in the Temporary Specification

Topic	Requirements
Collection of Registration Data	<ul style="list-style-type: none"> • Registrars are required to continue to collect Thick Registration Data.
Transfer of Registration Data	<ul style="list-style-type: none"> • Registrars are required to continue to transfer Thick Registration Data to Registry Operators. Registry Operators are required to continue to accept Thick Registration Data from Registrars. • Requirements of the Thick WHOIS Policy remain in place. The Board is being asked to defer compliance enforcement of the Policy for another 6 months for .COM/.NET to allow more time for ICANN and the contracted parties to more clearly understand how Registration Directory Services (RDS) will be affected and modified by the Temporary Specification.
Data Escrow	<ul style="list-style-type: none"> • Registrars and Registry Operators are required to continue to escrow Registration Data.
Data Retention	<ul style="list-style-type: none"> • Registrars are required to continue to retain data for the life of the domain name registration plus 2 years, unless a shorter time has been approved by ICANN through the existing Data Retention Waiver Process.
Consistent Labeling and Display Policy	<ul style="list-style-type: none"> • The requirements of the Consistent Labeling and Display Policy that governs the format of the Registration Data output remains in place.
WHOIS Data Reminder Policy	<ul style="list-style-type: none"> • The WHOIS Data Reminder Policy that requires Registrars to send annual notices to Registrants to review and update Registration Data remains in place.
Legal versus Natural Person	<ul style="list-style-type: none"> • Registrars and Registry Operators are not required to distinguish legal versus natural person for the purpose of publication of Registration Data. However, Registrars and Registry Operators must comply with the new requirements for (i) Data processing; (ii) Consent; and (iii) Redaction of Personal Data from RDDS output.
Rights Protection Mechanisms and Trademark Clearinghouse	<ul style="list-style-type: none"> • Existing rules and procedures for rights protection mechanisms and the trademark clearinghouse remain in place.

2. Modified Requirements for GDPR

Topic	Requirements
Data Processing/Controller Arrangements [Appendix D]	<ul style="list-style-type: none"> • Each contracting party with ICANN is acting as an independent “Controller.” • Each controller shall observe the following principles governing its processing of personal data: <ul style="list-style-type: none"> ○ Lawfulness, fairness, and transparency ○ Purpose limitation ○ Data minimization ○ Accuracy ○ Storage limitation ○ Integrity and confidentiality • Registrars and Registry Operators are required to notify ICANN if (i) it cannot abide by these principles; and (ii) it receives a complaint that it has failed to abide by these principles.
Applicability [Appendix A, Sections 3 and 4]	<ul style="list-style-type: none"> • Registrars and Registry Operators are required to apply the Registration Data Directory Services requirements to processing of Personal Data linked to the European Economic Area (“EEA”). • Registrars and Registry Operators are permitted to apply the requirements to processing that is not subject to the GDPR where Registrars and Registry Operators have a commercially reasonable purpose to do so.
Consent [Section 7.2]	<ul style="list-style-type: none"> • As soon as commercially reasonable, Registrars must allow Registrants, Admin, and Tech contacts the opportunity to opt in to have their personal data published. • Registrars (but not Registries) are required to publish additional contact information where the applicable contact has provided consent.
Purposes for Processing of gTLD Registration Data [Section 4]	<p>ICANN is of the view that the collection of Personal Data (one of the elements of Processing) is specifically mandated by the Bylaws. In addition, other elements of the Processing Personal Data are needed to ensure a coordinated, stable and secure operation of the Internet’s unique identifier system.</p> <p>The section provides an analysis of ICANN’s analysis to balance the legitimate interests described with the interests, rights, and freedoms of the affected data subject, and describes its rationale for why the processing is proportionate. This includes, for example, that a tiered/layered access framework as required by this Temporary Specification minimizes the risk of unauthorized and unjustified processing. [See Section 4.5]</p> <p>Personal Data included in Registration Data may be processed on the basis of a legitimate interest, and only for the following legitimate purposes:</p> <ul style="list-style-type: none"> • Reflecting the rights of a Registered Name Holder in a Registered Name and ensuring that the Registered Name Holder may exercise its rights in respect of the Registered Name; • Providing access to accurate, reliable, and uniform Registration Data based on legitimate purposes not outweighed by the fundamental rights of relevant data subjects, consistent with GDPR; • Enabling a reliable mechanism for identifying and contacting the Registered Name Holder for a variety of legitimate purposes more fully set out below; • Enabling a mechanism for the communication or notification of payment and invoicing information and reminders to the Registered Name Holder by its chosen Registrar; • Enabling a mechanism for the communication or notification to the Registered Name Holder of technical issues and/or errors with a Registered Name or any content or resources associated with such a Registered Name;

	<ul style="list-style-type: none"> • Enabling a mechanism for the Registry Operator or the chosen Registrar to communicate with or notify the Registered Name Holder of commercial or technical changes in the domain in which the Registered Name has been registered; • Enabling the publication of technical and administrative points of contact administering the domain names at the request of the Registered Name Holder; • Supporting a framework to address issues involving domain name registrations, including but not limited to: consumer protection, investigation of cybercrime, DNS abuse, and intellectual property protection; • Providing a framework to address appropriate law enforcement needs; • Facilitating the provision of zone files of gTLDs to Internet users; • Providing mechanisms for safeguarding Registered Name Holders' Registration Data in the event of a business or technical failure, or other unavailability of a Registrar or Registry Operator; • Coordinating dispute resolution services for certain disputes concerning domain names; and • Handling contractual compliance monitoring requests, audits, and complaints submitted by Registry Operators, Registrars, Registered Name Holders, and other Internet users.
International Data Transfers [Section 5.5]	<ul style="list-style-type: none"> • For international transfers of Personal Data to a country that is not deemed adequate by the European Commission per Article 45(1) GDPR, ICANN/Registry Operator/Registrar will process the personal data on the basis of adequate safeguards permitted under Chapter V GDPR, including the use of Standard Contractual Clauses (2004/915/EC).
Data Processing Provisions in Registry-Registrar Agreements (“RRA”) [Section 6.3]	<ul style="list-style-type: none"> • Registry Operators must include data processing provisions in its RRAs with Registrars. • If these provisions are substantially similar to the provisions provided in the form of agreement approved by ICANN and the contracted parties, then no further approval from ICANN is required. • Registry Operator must send ICANN the amended RRA, at which time it will be deemed to supplement or replace the approved RRA without further amendment to the Registry Agreement (where applicable).
Service Level Agreements for Registrars and Registry Operators [Appendix B]	<ul style="list-style-type: none"> • For Registry Operators on the Base Registry Agreement and Registrars on the 2013 Registrar Accreditation Agreement, the existing RDDS SLAs are being extended to RDAP. • For Registry Operators not on the Base Registry Agreement, equivalent RDAP SLAs are being imposed. • The new SLAs come into effect once RDAP is required to be implemented.
Publication of Additional Registration Data [Appendix A, Section 5]	<ul style="list-style-type: none"> • Registrar and Registry Operator are currently only required to publish Registration Data specified in the 2013 RAA and the Consistent Labeling and Display Policy. • Some Registrars and Registry Operators opt to publish additional fields in their RDDS output. • New requirement is added to ensure that Registrars and Registry Operators who choose to publish additional Registration Data comply with the data processing requirements of the Temporary Specification.
Publication of Registration Data [Appendix A, Section 2]	<ul style="list-style-type: none"> • Generally, existing Registrars and Registry Operator requirements for publication of Registration Data remain in place. • For domain name registrations where Registrar and Registry Operator are required to or have a commercially reasonable purpose to apply the EEA requirements: <ul style="list-style-type: none"> ○ Registrar and Registry Operator must display “REDACTED FOR PRIVACY” (or substantially similar text) in the following fields: <ul style="list-style-type: none"> ▪ Registry Registrant ID ▪ Registrant Name

	<ul style="list-style-type: none"> ▪ Registrant Street ▪ Registrant City ▪ Registrant Postal Code ▪ Registrant Phone ▪ Registrant Phone Ext ▪ Registrant Fax ▪ Registrant Fax Ext ○ For contacts other than the Registrant (e.g., Admin, Tech), the following additional fields must also display “REDACTED FOR PRIVACY”: ▪ Admin/Tech/Other Organization ▪ Admin/Tech/Other State/Province ▪ Admin/Tech/Other Country ○ Prior to the required implementation of RDAP, Registrar and Registry Operator may leave the redacted fields blank, or not publish the field at all. ○ Registrar must provide an email address or a web form to contact, but not identify the contact or the contact’s email address. ○ Registry Operators must provide a message in the email field substantially similar to the following message: “Please query the RDDS service of the Registrar of Record identified in this output for information on how to contact the Registrant, Admin, or Tech contact of the queried domain name.”
<p>Access to Non-Public Registration Data [Appendix A, Section 4]</p>	<ul style="list-style-type: none"> • Registrar and Registry Operator must provide reasonable access to personal data not published in the public WHOIS to a third party on the basis of legitimate interests pursued by such third party, except where such interests are overridden by the interests or fundamental rights and freedoms of the Registrant or other data subject. • Registrar and Registry Operator may independently make the determination; provided, however, that Registrar and Registry Operator must provide reasonable access to a third-party where the Article 29 Working Party/European Data Protection Board, court order of a relevant court of competent jurisdiction, applicable legislation or regulation has provided guidance that the provision of specified non-public elements of Registration Data to a specified class of third-party for a specified purpose is lawful. Registrar and Registry Operator MUST provide such reasonable access within 90 days of the date ICANN publishes any such guidance, unless legal requirements otherwise demand an earlier implementation. • Registrar and Registry Operator may provide access via a mechanism of their choosing, subject to obligation to provide via RDAP described below.
<p>RDAP [Appendix A, Section 1.1]</p>	<ul style="list-style-type: none"> • Registrar and Registry Operators must operate a RDAP service. • ICANN and the community will define profile(s) by 31 July 2018. • ICANN will subsequently give notice to implement RDAP. • Registrar and Registry Operators will have 135 days from the date of ICANN’s notice to implement RDAP. This 135 days is a carry-over from the existing RA and RAA.
<p>URS [Appendix E]</p>	<ul style="list-style-type: none"> • Registrar and Registry Operator must provide URS provider with full Registration Data upon notification of a complaint. • This requirement supplements the existing URS Technical Requirements.
<p>UDRP [Appendix F]</p>	<ul style="list-style-type: none"> • Registrar must provide the UDRP provider with full Registration Data upon notification of a complaint. • This requirement supplements the existing UDRP Rules.
<p>ICANN Contractual Compliance [Section 5.7]</p>	<ul style="list-style-type: none"> • Registrar and Registry Operator must provide reasonable access to Registration Data to ICANN upon request and reasonable notice for the purpose of investigating

	<p>compliance-related inquiries and enforcement of the RA, RAA, and ICANN consensus policies.</p>
<p>Registry Monthly Reports [Appendix H]</p>	<ul style="list-style-type: none"> • The existing Registry monthly report is expanded to include reporting of RDAP-related statistics. • The requirement comes into effect once RDAP is required to be implemented.
<p>RDDS Search Capabilities/ Searchable WHOIS [Appendix A, Section 1.2]</p>	<ul style="list-style-type: none"> • Where search capabilities are permitted and offered, Registry Operator and Registrar must: 1) ensure such search capability is in compliance with all applicable privacy laws or policies, 2) only do searches on data otherwise available to the querying user based on their access level and only provide results otherwise available to the querying user based on their access level; and 3) is consistent with the requirements of the Temporary Specification regarding public/non-public WHOIS/RDDS. • Where offered, search capabilities must be offered on web-based WHOIS and the RDAP service (when available).
<p>Notices to Registrants Regarding Data Processing [Section 7.1]</p>	<ul style="list-style-type: none"> • Existing Notice requirements in the 2013 RAA are replaced by new Notice requirements for compliance with GDPR.
<p>Transfer Policy [Appendix I]</p>	<ul style="list-style-type: none"> • Until such time when RDAP is required to be implemented, the inter-registrar transfer process is being updated in order to ensure continued transfers of domain names absent Registrant contact data in the public WHOIS. • The changes include: <ul style="list-style-type: none"> ○ The Gaining Registrar will not be required to obtain a Form of Authorization from the transfer contact. ○ The Losing Registrar may deny a transfer if no response is received from the Registrant or Admin contact within the time allotted by the Transfer Policy. ○ The Registrant will need to re-enter Registration Data with the Gaining Registrar, which will not be considered a change-of-registrant and therefore not subject to the 60-day lock. • Registrar and Registry Operator shall follow best practices in generating and updating the “AuthInfo” code to facilitate a secure transfer process. • Registry Operator must verify that the “AuthInfo” code provided by the Gaining Registrar is valid in order to accept an inter-registrar transfer request. <p>[Note: the mainstay of the requirements reflect the proposal from the contracted parties’ Tech Ops group.]</p>
<p>Bulk Registration Data Access to ICANN [Appendix G]</p>	<ul style="list-style-type: none"> • Existing requirement is modified to require Registry Operator to send ICANN Thin data only.
<p>Annex: Important Issues for Further Community Action</p>	<ul style="list-style-type: none"> • The Temporary Specification provides modified requirements to address the immediate needs of GDPR compliance, and the ICANN Board encourages the community to consider the identified implementation items that need to be resolved as quickly as possible after the effective date of the Temporary Specification. These items include: <ul style="list-style-type: none"> • Community work to develop an accreditation program • Developing methods to provide potential URS and UDRP complainants with sufficient access to WHOIS data to support good-faith filings of complaints • Addressing the feasibility of requiring the same anonymized email address across registrations of the same contact (subject to ensuring security/stability requirements)
	<ul style="list-style-type: none"> •