



12 September 2017

RE: General Data Protection Regulation (GDPR) and the Domain Name System

Andrea Jelinek
Director, Österreichische Datenschutzbehörde
Hohenstaufengasse 3
1010 Wien

Dear Andrea Jelinek :

Title: ICANN's work to understand the effects of the GDPR, and release of information Matrix

As President and CEO of ICANN, I wanted to share some information about the work we are doing to understand the effects of the upcoming GDPR on the global Domain Name System that ICANN helps coordinate and in particular WHOIS, a publicly available directory service containing information about more than 187 million registered domains such as economist.com. This is an issue that will affect many European domain name registrars (who sell domain names to end users like economist.com), registries (that run top level domains like .org) and businesses as well as organizations and individuals across the entire world.

As you may know, the Internet is administered by a decentralized collection of organizations and people who set rules, standards, and policies so that the world can be connected on one global, secure and stable Internet. ICANN is a nonprofit globally non-governmental non-profit organization. ICANN's role is to coordinate, at a global level, the Internet's system of unique identifiers. Its core mission is the responsibility of ensuring the security and stability of the top-level of the unique identifiers used on the Internet, specifically, domain names, Internet Protocol addresses, and other technical parameters used to make the Internet work and that help facilitate a global Internet.

The ICANN community is a volunteer-based, open collection of global stakeholders, including: businesses, Internet engineers, technical experts, civil society, governments (including law enforcement), end users and many others. Over 172 countries and 36 observers participate in ICANN's multistakeholder processes as part of ICANN's Governmental Advisory Committee. The community works together through a bottom-up process to give advice, make policy recommendations, conduct reviews and propose implementation solutions for common problems within ICANN's mission and scope. All European governments, including yours, are active members of the Governmental Advisory Committee (GAC), which plays an important role in the development of policies and advice.

As part of our responsibilities, and through contracts with its registries and registrars, ICANN coordinates WHOIS, which is a publicly available, globally distributed repository of information, known as registration data, that provides contact, and other information for the secure, stable, and resilient operation of the Internet. Maintaining public access to accurate, complete, and up-to-date registration data on resources used on the Internet facilitates efforts to identify and mitigate issues that can impact the proper operation of the network, and also helps to ensure

domain name holders receive renewal notices and important updates, reduce the chance of fraud (such as an unauthorized transfer or change), and protect domain names against suspension or deletion, which can happen if information is inaccurate or missing.

The topic of WHOIS and data protection is older than ICANN. Since 1999, ICANN's registrar accreditation agreements have required registrars to obtain informed consent to use such data, to notify registrants relating to personal data processing activities and to provide registrants the ability to rectify their information. Customers that do not wish to have their contact information published in WHOIS are able to use a "proxy" registration service that will register a domain in the name of the proxy and then license the use of the domain to the customer.

ICANN is closely following developing data privacy and protection regulations around the world, including GDPR, to determine the potential impact to the services and functions ICANN is responsible for, including WHOIS.

To help inform whether there are contractual compliance implications because of the new law, ICANN is engaged in extensive legal review and analysis of the GDPR relating to the domain name industry. For example, we have engaged a specialist European law firm, Hamilton Advokatbyrå, to provide legal analysis on the domain name industry's use of WHOIS. A draft of the initial phase of the analysis from Hamilton, is expected to be ready to be published for feedback from stakeholders prior to the ICANN meetings in Abu Dhabi in October 2017.

Of course, ICANN's contracted parties need to make their own determination about GDPR and related legal obligations as they relate to their specific situations. Compliance with local laws is expressed or implied in ICANN's agreements with contracted parties.

The global ICANN community has been working to create a matrix to provide a comprehensive list of user stories related to registrants' data that registries and registrars collect, display and process, pursuant to ICANN contracts. I attach a copy of the public matrix of user cases to this letter.

ICANN will continue to work to understand the effects of GDPR on our organization, and to work with our community, and other parties, such as the DPA community and European institutions, to understand and facilitate discussions on its effects on our agreements and on WHOIS.

I hope you have found this information helpful. If you have any questions or would like to discuss further, please let me know or contact the Managing Director of ICANN's Brussels office - jean-jacques.sahel@icann.org.

Sincerely,



Göran Marby