



23 January 2018

Brian Winterfeldt,
President, Intellectual Property Constituency

Dear Mr. Winterfeldt,

Thank you for your letter, dated 14 December 2017, which has been posted to the ICANN Correspondence [page](#). We appreciate your input on the steps ICANN org is taking to address compliance with the European Union's General Data Protection Regulation.

I have noted your concerns regarding the 2 November 2017 [Statement from Contractual Compliance](#) and its compatibility with the [Revised ICANN Procedure for Handling WHOIS Conflicts with Privacy Laws](#) (WHOIS Procedure). As we stated in the [Guidelines for Proposed Models to Address the GDPR](#), contracted parties do not need to initiate the [Registry Service Evaluation Policy](#) or the WHOIS Procedure) to share a proposed model with ICANN for analysis unless they plan to imminently deploy the model. Any deviation from ICANN contractual requirements must be approved or authorized in advance of deployment.

It is important to note that this temporary measure is not intended to supersede existing policies. The ability to apply for a temporary deferral of contractual compliance enforcement is meant to address the approaching 25 May 2018 deadline for the GDPR's enforcement. Given that numerous contracted parties may be affected by this legislation, we are, as you know, working with the community to move 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. In parallel, the GNSO Council is [revisiting the Procedure](#) by forming a [Drafting Team](#) to consider revising the Procedure's available triggers.

You also note in your letter that the Procedure asks those utilizing it to "preserve the ability of the registry/registrar to comply with its contractual WHOIS obligation to the greatest extent possible." In my [21 December 2017 blog](#) and in other fora, I have emphasized that the organization has made it a high priority to find a path forward to ensure compliance with the GDPR while maintaining WHOIS to the greatest extent possible. This remains a critical point as we seek to find workable solutions to ensure both compliance with the law and with ICANN's contracts.

In light of the [comments](#) from you and others in the community, including exchanges with data protection authorities, as well as legal analyses, we recently [published](#) for community feedback three proposed interim models for compliance. We need your input to determine the best course of action. Please send any comments on these approaches to gdpr@icann.org by 29 January 2018. We plan to decide on our next steps by the end of the month.

We'll continue to keep the community apprised of our engagement activities and urge you to monitor our [data protection/privacy page](#) as we receive input and other proposed models from the community.

Sincerely,



Göran Marby
President and CEO, ICANN