



The Internet Corporation for Assigned Names and Numbers

25 March 2014

Dear Chairman Kohnstamm,

Thank you for your letter of 8 January 2014. ICANN appreciates the Article 29 Data Protection Working Party's continuing contributions and its support of registrars in navigating the data retention waiver request process established under the 2013 Registrar Accreditation Agreement ("RAA"). ICANN very much values and respects the advice you have provided with regard to the RAA, and agrees that it would be useful to establish a more streamlined approach to these issues, if possible.

As you might be aware, approximately 15 registrars have requested waivers pursuant to the RAA's data retention waiver request process. Of those, one waiver has been preliminarily granted (pending a 30 day opportunity for public comment) and another was made final on 12 March 2014. Several other registrars have been in discussions with ICANN, either directly or through legal counsel, in efforts to finalize waivers appropriate to their jurisdictions. In total, registrars from nine jurisdictions within the EU have engaged with ICANN in this process.

Through the examination of these requests, ICANN has learned that Member States of the EU, while applying the same data protection principles promulgated under the Data Protection Directive, may have differing interpretations of what is a "legitimate purpose" in determining the length of time for which data may be lawfully retained. As a result, ICANN is working to understand the extent to which collection and retention of data is allowed in each jurisdiction within the EU and to examine whether it is possible to apply a consistent framework to registrars within a specific jurisdiction as it respects a modification of the RAA's requirements via a waiver. It is our intention to conduct this work on an expedited effort in order to resolve these waiver requests promptly over the next few months.

In an effort to bring to conclusion the negotiation of the remaining waiver requests received by ICANN, and to help expedite resolution of future requests, we have initiated a public comment process designed to help clarify the lawful and legitimate purposes for collection and retention of data under the RAA. We are hopeful that this will help inform ICANN's discussions with registrars and the community and lead to a resolution that is acceptable to the registrars and consistent with applicable law.



It is our hope that the Working Party will continue to play a role in the resolution of the data protection issues raised by registrars in the EU, whether that be through the community dialog process we have initiated or in other ways. As ICANN continues to address important issues in this realm, we'd like to ensure there is an open and effective line of communication. In this respect we were grateful for the meeting you facilitated between ICANN staff and the German Data Protection Office.

As always, thank you for your contribution to ICANN's multi-stakeholder processes.

Sincerely,

A handwritten signature in blue ink, appearing to read "Cyrus Namazi", is written over a light blue horizontal line.

Cyrus Namazi
Vice President, Domain Name Services
Global Domains Division