

ICANN, The General Data Protection Regulation (GDPR) and WHOIS

MIDDLE EAST DNS
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Agenda

- ⦿ A Bit of background
- ⦿ About the GDPR
- ⦿ What it is – and what it is not.....
- ⦿ ICANN and the GDPR
- ⦿ WHOIS and GDPR



About the General Data Protection Regulation (GDPR)

- ◉ The European Union's (EU's) GDPR aims to protect EU citizens and residents from privacy and data breaches (takes effect on 25 May 2018)
- ◉ *“The Regulation is an essential step to strengthen citizens' fundamental rights in the digital age and facilitate business by simplifying rules for companies in the Digital Single Market”.*
- ◉ Applies to all companies processing and holding the personal data of subjects residing in the EU, regardless of the company's location
- ◉ Failure to comply may result in fines up to €20 million or 4% of global annual turnover
- ◉ European Data Protection Authorities will interpret and enforce the regulation, and European courts will resolve any disputes
- ◉ More information: http://ec.europa.eu/justice/data-protection/reform/index_en.htm



What it is and what is not.....

- ⦿ It is significant and important,
- ⦿ Builds upon 1995 Data Protection Directive
- ⦿ Was approved by all 28 member States and European Parliament
- ⦿ It *does* apply outside European Union;
- ⦿ It is not *aimed* at ICANN – WHOIS was not a component of debate
- ⦿ It is not *advisory*.....



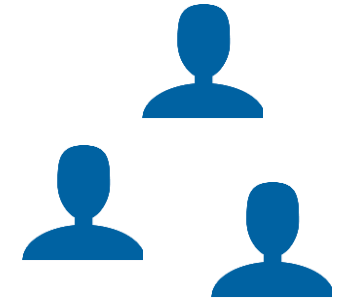
ICANN: Preparing for the GDPR

- The GDPR could affect ICANN in at least 2 areas:
 - 1) Contracted Parties: Personal data that participants in the domain name ecosystem collect, display, and process, including registries and registrars pursuant to ICANN contracts
 - 2) Internal: Personal data that ICANN collects and processes for internal or external services
- Closely monitoring global data protection/privacy developments. We are also tracking developments in other jurisdictions as ICANN understands that the landscape outside of Europe also is undergoing change and ICANN will take this into account in the proposed legal review.
- Engaging with contracted parties, the European community, data protection agencies, and other pertinent stakeholders including law enforcement and the IP community to better understand the relevant aspects regarding GDPR
- Overview of activity available at: <https://www.icann.org/resources/pages/gtld-registration-dataflow-matrix-2017-07-24-en>



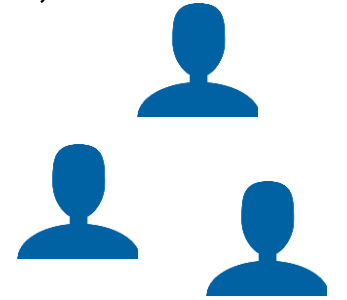
ICANN: Preparing for the GDPR

- ◉ September 2017: Published matrix of personal data contracted parties collect, transmit, or publish, and for what uses
- ◉ October 2017: Discussions at ICANN60 and various webinars
- ◉ November 2017: Contractual statement and call for input on models
- ◉ Oct.-Dec. 2017: 3-party external legal analysis by Swedish law firm Hamilton
- ◉ January 2018: Publication of proposed models for input
- ◉ March 2018: Published detailed description of [Proposed Interim Compliance Model](#)
- ◉ Proposals suggest a tiered / layered access to WHOIS data
- ◉ The proposed model represents potential interim solutions for compliance with existing ICANN agreements and policies
- ◉ April 2018: Received guidance on model from Article 29 Working Party, continuing dialogue



GDPR and WHOIS

- ◉ WHOIS part of furniture of Internet – not a central database
- ◉ EU (Article 29 Committee) have raised concerns before; not least on retention of data; ICANN allowed waivers;
- ◉ Many uses of WHOIS from positive to fraudulent (and spam);
- ◉ Accreditation seen as important in allowing recognised bodies continued access to information needed;



Let us talk and discuss GDPR

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