Interim Model for GDPR Compliance

ICANN61 Cross-Community Session: GDPR and WHOIS Compliance Model (Part 2)

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ICANN

ICANN Interim Compliance Model: Key Elements

Data Collection, Processing, and Retention	
Collection from Registrant to Registrar	Full Thick data
Data Transfer from Registrar to Registry	Full transfer of data collected
Data Transfer to Escrow Agents	Full transfer of data collected
Data Retention	Life of registration + 2 years (Note: existing waivers for European registrars would be preserved)
Applicability	
Must Model be applied globally or only to European Economic Area?	Must be applied to EEA, may be applied globally, subject to a data processing agreement between ICANN and the contracted parties
Registrant Types Affected	Registrations of natural and legal persons

ICANN Interim Compliance Model: Key Elements

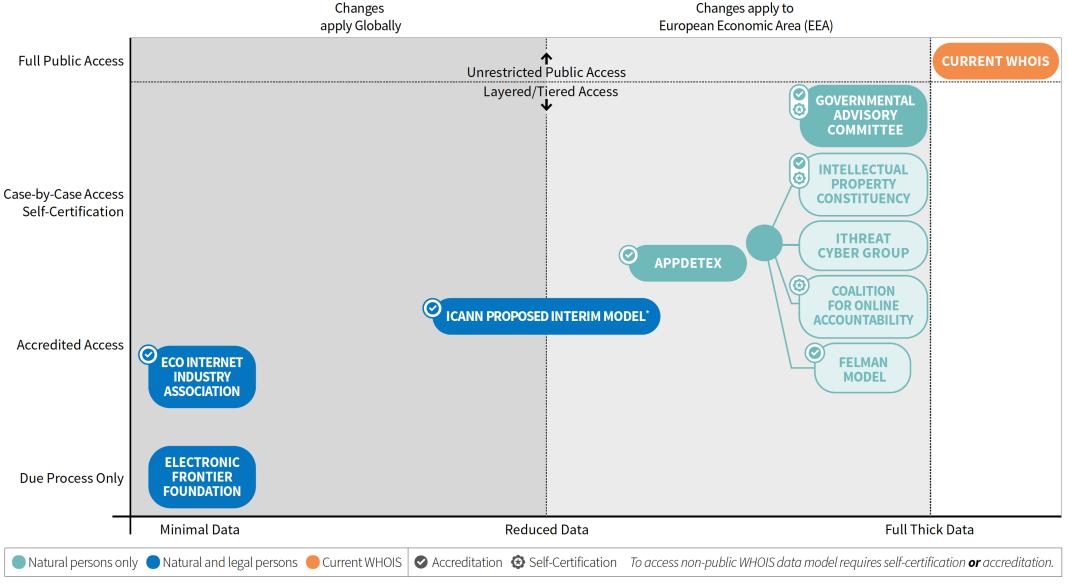| Layered/Tiered Access to WHOIS Data: Public WHOIS	
Registrant Name in Public WHOIS?	Only Registrant Organization (if applicable) in public WHOIS (not Registrant Name)
Registrant Postal Address in Public WHOIS?	Only Registrant State/Province and Country in public WHOIS (not Registrant street, city, postal code)
Registrant Email in Public WHOIS?	Create anonymized email or a web form to contact registrant
Registrant Phone and Fax in Public WHOIS? Admin and Tech Contact Names in Public WHOIS? Admin and Tech Contact Postal Addresses in Public WHOIS?	No
Admin and Tech Contact Email Addresses in Public WHOIS?	Create anonymized email or a web form to contact Admin and Tech contacts
Admin and Tech Contact Phone in Public WHOIS?	No
Registrar Must Offer Registrant an Opt-in to Publish Additional Data in Public WHOIS?	Yes

ICANN Interim Compliance Model: Key Elements

Layered/Tiered Access to WHOIS Data: Non-Public WHOIS	
Self-certification Access to Non-public WHOIS?	No. Create anonymized email address or a web form to contact registrant or due process
Accreditation Program for Access to Non-public WHOIS?	Yes, in consultation with the GAC, DPAs and contracted parties with full transparency to the ICANN community. Individual countries to provide GAC a list of authorized law enforcement and other governmental authorities to have access. GAC to consult on development of code of conduct for non-law enforcement agencies to abide by for access to non-public WHOIS data

Proposed Interim GDPR Compliance Models and Selected Community Input (Working Draft)

Changes apply Globally

Changes apply to European Economic Area (EEA)

Full Public Access

CURRENT WHOIS

Unrestricted Public Access

Layered/Tiered Access

GOVERNMENTAL ADVISORY COMMITTEE

Case-by-Case Access Self-Certification

INTELLECTUAL PROPERTY CONSTITUENCY

ITHREAT CYBER GROUP

APPDETEX

COALITION FOR ONLINE ACCOUNTABILITY

ICANN PROPOSED INTERIM MODEL*

Accredited Access

FELMAN MODEL

ECO INTERNET INDUSTRY ASSOCIATION

Due Process Only

ELECTRONIC FRONTIER FOUNDATION

Minimal Data   Reduced Data   Full Thick Data

● Natural persons only   ● Natural and legal persons   ● Current WHOIS   ✔ Accreditation   ⚙ Self-Certification   *To access non-public WHOIS data model requires self-certification **or** accreditation.*

*: ICANN Proposed Interim Model **must** be applied to registrations with a nexus to the EEA and **may** be applied to all registrations globally.

More on the cited models, including community comments at: https://go.icann.org/gdprlegal

Interim Compliance Model – Elements with Competing Views

1.   **Collection and Transfer of Administrative and Technical Contact Details**

Whether or not registrars must continue to collect the contact details for administrative and technical contacts and transmit them to the registry and escrow provider.

2.   **Publication of Email Addresses for Registrant, Administrative, and Technical Contacts**

Whether or not anonymized email addresses should be substituted for the email addresses for registrant, administrative, and technical contacts in public WHOIS.

3.   **Scope of Applicability of the Interim Compliance Model**

Whether or not registries and registries should be permitted to optionally apply the model on a global basis.

4.   **Types of Registrations Affected by the Interim Compliance Model**

Whether or not the model should apply to contact details supplied by registrants who are legal persons.

Interim Compliance Model – Elements with Competing Views

5. **"Interim" Approach for Continued Access to Full WHOIS Data**

Which elements of WHOIS data should be published in public WHOIS while an accreditation program for layered/tiered access is being developed.

6. **Continued Access to Bulk WHOIS Data**

Whether or not the practice of providing bulk WHOIS via Port 43 can be continued in light of the GDPR.

Initial Feedback from the Community About the "Cookbook"

1. Provide additional justification for continued collection of full "Thick" WHOIS data

2. Provide more rationale for retention periods

3. Focus on developing a solution for access to WHOIS data while accreditation program is being developed

4. Provide more details about how Interim Model would be implemented and enforced