Hi Everyone:

Welcome to the team considering the Temporary Specification for gTLD Registration Data.

I have quite a bit to cover in this first note. My intention is to address many of the group start-up issues so that we can get into substance as soon as possible. This note will track to the agenda of our initial meeting:

1) **Introductions:** It is not difficult to figure out that a two-minute introduction by each member will take more than the first hour of our first meeting. Instead, please send a two to four sentence description of your background to the EPDP Team mailing list that is pertinent to this work. Feel free to add any aspirational goals for this group. We will collate these statements prior to or during the first meeting and maintain these on or wiki pages.

   During the initial meeting, I will ask each stakeholder group/constituency/advisory committee to make a brief (~2 minutes) statement about their team and objectives. Please prepare for that.

2) **Vice Chair:** I propose that we name the GNSO liaison, Rafik Dammak, as Vice Chair of this team. My reasons for being proactive in this regard are:

   a. I don't want to take up our valuable time with a discussion on this and,

   b. I would rather not select another member of this team as that would take that person for being a participating party to an independent one and, more or less, silence her/him as a selected representative.

   c. The Council liaison in this case is independent, knowledgeable of all the work and thought processes to date, and also has the right dog in the fight – the success of this multi-stakeholder effort.

   d. The sole required role of the Vice Chair (as I understand it) is to replace the Chair when the Chair is unavailable. This seems that it would fit in neatly with Rafik's other duties as GNSO liaison.

   There is some reservation about selecting the GNSO liaison as a vice chair in the EPDP Charter resulting from previous practice but I think this can be easily overcome noting the exceptional situation. I will seek the assent of the GNSO Council to name the Council Liaison, Rafik Dammak, the Vice Chair of the EPDP Team. Please write to me if you have a reservation about this.

3) **Read** the Statement of Participation https://community.icann.org/x/OgFpBQ. The GNSO Council has gone to significant effort to craft this guide for this team, indicating the importance attached to this standard and its role in the ultimate success of this team.

4) **Document review:** I am sure you have read the Temporary Specification (https://www.icann.org/resources/pages/gtld-registration-data-specs-en) and the EPDP Team Charter https://community.icann.org/x/0opHBQ.

   To tell you the truth, I have read them several times and come away with something different each time. Please familiarize yourself completely with these two documents prior to the meeting.

   In addition, a document library is included in the appendix as well as posted on the Team's workspace (see https://community.icann.org/x/iwE5BQ). Please familiarize yourself with these in order to participate in the discussion (some should be fully read while others are to be used as reference documents.

5) **Early Input:** It is a PDP requirement that written input be solicited at the outset from all GNSO Stakeholder Groups, Constituencies as well as ICANN Supporting Organizations and Advisory Committees. Since this is an expedited PDP, we are permitted to reduce the response time for Early Input to 21 days, which we propose to do. There is likely to be complaints about the short timeframe but remember that all GNSO Stakeholder Groups/Constituencies and ICANN Supporting Organizations and Advisory Committees have been invited to participate in the discussion so the Early Input requirement in this case is almost redundant. In addition, we will limit the Early Input topics to the temporary specification itself and provide another opportunity for Supporting Organizations' and Advisory Committees' input when the "access" discussion occurs. You can find the proposed request for input which is expected to go out immediately following our first meeting here:
https://community.icann.org/download/attachments/90767546/4c.%20EPDP%20Team%20Request%20for%20Early%20Input%20-%2023%20July%202018.docx?version=1&modificationDate=1532979476000&api=v2.

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6) **Charter:** As you know from your reading of it, the Charter is detailed and lists several questions for consideration. Importantly, there are three deliverables:

   a. a "triage" of the temporary specification, to determine the current degree of consensus supporting the temporary specification as written,

   b. an initial report on the specification itself, and

   c. an initial report on "access."

   We will focus on these deliverables and refer back to the Charter for questions whose answers are prerequisites to taking certain decisions. This is especially pertinent in the topic of access.

   We will provide a brief description of the Charter contents during the first meeting but each of us is responsible for reading and understanding its contents and requirements.

7) **Timeline / Schedule:** Somehow, someone decided that we will provide an initial report before the next ICANN meeting, essentially 10 weeks' time for substantive discussion. I have several thoughts here.

   a. The primary requirement of this team is to act on the temporary specification before it expires. Given the current plan for comment periods, GNSO Council and ICANN Board considerations, and other necessary actions, we must finish most substantive work on the preliminary specification by the Barcelona meeting.

   b. We will aspire to meet that schedule, i.e., we should make a plan to deliver the first two (the triage and the initial report on the temporary specification) prior to the Barcelona meeting and then begin deliberations on access to gTLD registration data.

   c. With that in mind, a meeting in Barcelona could start substantive work on "access", if the gating questions have been answered by that time.

   d. Alternatively, we can create additional time in the schedule for our initial deliberations on the preliminary specification by eliminating the second comment period and ensuing analysis. While we need to check with ICANN, the second comment period seems to be redundant because we are already involving every ICANN constituency / stakeholder group / advisory committee. From each of these we have:

      i. written "early input,"

      ii. deliberation leading to the creation of an initial report,

iii. taken public comment on board to create a final report, and

iv. the consideration of the GNSO Council, who (involving every constituency and stakeholder group) has discussed the initial and final reports and the public comment, and then considered by the ICANN Board who has read the initial and final reports and the public comment –

I am not sure there is a need for the Board to consider the comments of individuals or groups that have already participated in the process. *To me, the second comment period serves as a disservice to the bottom-up process.* Let me know if you disagree.

Therefore, I propose creating two timelines, the aspirational one that essentially completes our first two deliverables by the Barcelona meeting. A second one that takes advantage of the additional time gained by a possible alternative approach to the second comment period.

8) **Operating Mode:** Our discussions should be direct and tailored to the issue being discussed. With that in mind, we will plan specific issues for discussion in each meeting. (Any member of this team can nominate an issue for discussion by the group, where, with the consent of the group, it will be placed in a time-appropriate place on the agenda.)

To assess the degree of consensus on a particular issue being discussed, I propose we "go around the room" for a statement on the issue from each stakeholder group / constituency / advisory committee participating. That does not mean there can be only one speaker from each group, only that if a second speaker in the group speaks, s/he will make a different point than the first.

(This will require some management of the "chat" as well. It will be the oral statements of each representative group that will carry weight and the continuation of a chat on a previous topic would serve as a distraction.)

After hearing from each of the groups, we will assess the degree of consensus and specifically identify areas of difference for the next round of discussions – inviting solutions or compromises in the next round of discussion.

I think we will adjust this model as our discussions progress but I recommend this as our starting point.

9) **Mediation / Facilitation:** I believe these deliberations would benefit from the use of mediation techniques. It has been urged by the GNSO Council and others that the members of this team engage in discussion and compromise. Mediation techniques facilitate compromise.

While I have some experience in this area (both as a mediator and a "mediate"), I also understand that I am not a qualified professional that can bring the full benefits of these techniques to the table. In addition, a mediation is generally between two parties and our multi-stakeholder discussion introduces additional complexities.

A few candidate resources have been recommended, some with ICANN connections and some not. I am testing with them and others whether qualified professionals in this area would be of benefit. If any of you have an opinion or can identify a competent resource in this area, please contact me.

An additional facilitator might also be employed to moderate our discussion in certain areas. This might be a member of our community or outside it, depending upon the skills and knowledge required.

10) **Meeting Frequency:** I propose meeting twice weekly: Tuesday and Thursday at 13.00 UTC for at least 2 hours. This is based on the location of EPDP Team members, alternates and liaisons. That will provide 20 or so meetings between now and our planned delivery of an initial report. If we meet once weekly, that will provide for 11 meetings and does not seem like enough. We will continue to hone a schedule (and monitor progress) to determine if we can cut back on the meeting frequency.

We are currently exploring the possibility of organizing a face-to-face meeting in Los Angeles for mid-September. We hope to confirm this a meeting as well as specific dates as soon as possible.

In addition, we are working with the Council leadership team and ICANN meeting staff to arrange working meetings at ICANN63. Preliminarily, we plan to:

1) reserve the whole of Saturday for EPDP Team meetings (obviating the need to come earlier or remain after the meeting is over),

2) host a high interest topic session, and

3) have two additional 90-minute meetings later in the week

I will share the proposed meeting times with you as soon as possible.

11) **Substantive Discussion:** I wish to have *some* substantive discussion during our first meeting in order to build momentum. I suggest these topics and starting points for our discussion:

a. Temporary specification content: ICANN's formulation of the temporary specification includes background and rationale (i.e., citations to ICANN's mission) supporting the creation and content of the document. Putting that material in writing before the public was a necessary part of the specification development.

However, to me, a specification is an addendum to registrar and registry requirements that provides direction. Therefore, I think much of the background and rationale should be taken from the temporary specification and memorialized elsewhere, perhaps into the Board resolution approving the final specification. Regardless of the reasoning for creating that temporary specification, it is here and a properly written final specification need only address the "how" and not the "why."

What does this group believe?

b. Triage start: we will introduce a poll format that will allow each representative group to display where they agree, agree with modification, or disagree with the Temporary Specification. This poll will be made available after the first meeting and can be used as a tool for groups to report early reaction to the Temporary Specification. If time allows, we will go around the room for groups to identify particular sections they wish to support or amend.

APPENDIX: Resource List for the Temp Spec gTLD RDS EPDP Team

Relevant Procedures
- Annex A-1 GNSO Expedited Policy Development Process of the ICANN Bylaws
- Expedited GNSO PDP Manual
- GNSO Working Group Guidelines

EPDP Initiation and Charter
- EPDP Initiation Request
- EPDP Charter

Temporary Specification
- Temporary Specification for gTLD Registration Data
- Advisory Statement: Temporary Specification for gTLD Registration Data
- Interim Model for Compliance with ICANN Agreements and Policies in Relation to the European Union's General Data Protection Regulation

Contracts
- 2013 Registrar Accreditation Agreement
- Base Registry Agreement – Updated 31 July 2017
- ICANN Temporary Specification Model Registry-Registrar Agreement Amendment Terms

EU Data Protection and Privacy Laws and Legal Analysis
- General Data Protection Regulation 2016/679 (GDPR)
- EC guidance on the direct application of the GDPR as of 25 May 2018
- 2018 reform of EU data protection rules
- EC guidance on data transfers outside the EU
- Working Paper on Privacy and Data Protection Issues with Regard to Registrant data and the WHOIS Directory at ICANN (Paris, 27/28.11.2017)
- GDPR Legal Analysis Memoranda and Related Inputs
- Responses to RDS PDP WG Questions on Data Protection and Privacy Laws

Purposes for Processing Registration Data
- Temporary Specification, Section 4:
  Lawfulness and Purposes of Processing gTLD Registration Data
- gTLD Registration Dataflow Matrix and Information
- Consolidated Outputs produced by RDS PDP Purpose Drafting Teams
- GAC Principles Regarding gTLD WHOIS Services
- A29 Opinion 03/2013 on purpose limitation
- EDPS Toolkit: Assessing the necessity of measures that limit the fundamental right to the protection of personal data (2017)
- EPDB Letter from Andrea Jelinek to Göran Marby [5 July 2018] and related correspondence
- Statement from the EDPB Regarding ICANN/WHOIS [May 2018]

Required Data Processing Activities

- [Temporary Specification, Sections 5](#)-7,
  [Appendix B: Supplemental Data Escrow Requirements](#)
  [Appendix C: Data Processing Requirements](#)
- [EPDB Letter from Andrea Jelinek to Göran Marby](#) [5 July 2018] and [related correspondence](#)
- [EC guidance on data transfers outside the EU](#)
- [OECD Guidelines on the Protection of Privacy and Transborder Flows of Personal Data](#)
- [Transfer Policy](#)
- [Registrar Data Escrow Program](#)
- [Emergency Back-end Registry Operator FAQ and Providers](#)
- [RDAP Operational Profile for Registries and Registrars](#) (2016)
- RDS/WHOIS [Data Retention Specification Waiver](#) and [Discussion Document](#)

Data Processing Terms

- Temporary Specification
  [Section 5. Requirements Applicable to Registry Operators and Registrars](#)
  [Section 6. Requirements Applicable to Registry Operators Only](#)
  [Section 7. Requirements Applicable to Registrars Only](#)
- [EC guidance on GDPR Obligations](#)

Other Consensus Policies

- [Uniform Rapid Suspension (URS) Policy](#) and [URS Rules](#)
- [URS High Level Technical Requirements for Registries and Registrars](#)
- [Uniform Domain Name Dispute Resolution Policy](#) and [UDRP Rules](#)
- [Transfer Policy](#)
- [Registration Data Directory Services Consistent Labeling and Display Policy](#)
- [Privacy & Proxy Services Accreditation Issues (PPSAI) PDP](#) and [Final Report](#)

System for Standardized Access to Non-Public Registration Data

- [ICANN-Proposed Framework for Unified Access Model for Continued Access to Full WHOIS Data](#)
- [Unified Access Model for Continued Access to Full WHOIS Data - Comparison of Elements of Models Submitted by the Community – Working Draft](#)
- [A29 Opinion 2/2003 on the application of the data protection principles to the Whois directories- WP 76](#)
- [EWG Report](#) Section 4c, RDS User Accreditation Principles
- EWG Research: [RDS User Accreditation RFI](#)

Please note all above-referenced documents can be found here:
https://community.icann.org/display/EOTSFGRD/Background+Documents