

EPDP Phase 2A Initial Report Input Form

Instructions: EPDP Team members are to review [the input form with the proposed resolution of cannot live with items](#), Keith's email (<https://mm.icann.org/pipermail/gnso-epdp-team/2021-May/003937.html>) the updated section 3 of the Initial Report (https://drive.google.com/drive/u/0/folders/1TW3Z-s6DzS2QsV_VwJ6iUQTvKVIXQrmG) and indicate what changes/updates are essential FOR THE PURPOSE OF THE PUBLICATION OF THE INITIAL REPORT **BY CLOSE OF BUSINESS, FRIDAY 28 MAY**. As such, you are encouraged to focus your input on any clarifying edits and/or questions that should be added to encourage community input.

Please use the second table for flagging any minor / non-substantive edits.

Line numbers & topic	Group	Rationale	Proposed Edit / Addition	Staff Support Team Proposed Resolution
1. 256-270	GAC	Avoid paraphrasing selective parts of GDPR and providing legal advice (rather than policy guidance)	Sent in attachment to 5/28/21 email to team; we are still conferring on this topic with Rgrsl	Awaiting confirmation of proposed resolution by RrSG Team
2. Fn 8, 214	IPC		GAC and IPC still conferring and hope to resolve before Tuesday	Awaiting resolution
3. 323-326	GAC	This statement should be qualified because consent is not the only basis for processing and disclosing personal data (e.g., GDPR Art 6.1 c and f)	Line 324, after publish add: "or due to another lawful basis under the GDPR"	Change applied – this seems to be a clarifying edit.

4. 346-48	GAC	As discussed this is the key outcome of the differentiation process and if CPs choose to differentiate, they must publish in publicly accessible data set. This is already a conditional event and should not have an additional layer of uncertainty.	Replace “should” with “must”	Change not applied – the question of whether a CP MUST use the differentiation guidance process and/or standardized data element has been called out as a specific question the EPDP Team is looking for input on. For now, this will remain as ‘Should’ consistent with how the guidance section has been written and is considered from an enforceability perspective.
5. 546	GAC	Adding Relevant Phase 1 Rec	Insert Phase 1 Rec 14	Change applied – edit for clarity
6. 579-583	GAC	Retain this language because it identifies a key preferred outcome of the Unique Contacts issues for input from the community	Note- we can discuss Rgr’s proposed refinement	Awaiting confirmation of proposed resolution.
7.				
9.				
10.				

MINOR EDITS:

Please indicate if you are using the originally-circulated Initial Report line number by writing (previous) next to the lines or the newly-circulated version, which incorporates cannot live with items, by writing (new).

Line numbers & topic	Group	Rationale	Proposed Changes	Staff Support Team proposed resolution
9-10 (previous)	RySG	Considering the GNSO instructions, and expectation to stick to the schedule given, we do note that a substantial amount of 'can't live with items' have been posted. We would suggest that further discussion regarding the actual support for publication should be considered.		
58 (new)	GAC	Clarity	Spell out contracted parties' (rather than CPs)	Change applied
62 (previous)	IPC	more accurately stated	"legal person registrant's registration data"	Change applied – clarifying edit
100 (previous)	bc	100 mentions "standardization" but 104 leaves format to ad hoc design by each CP.		Not clear what change is being proposed. Note that this paragraph outlines that some are of the view that such standardization is not necessary.
138 (previous)	IPC	consistency	"(Yes/No/Unspecified)"	Change applied
136 (previous)	BC	Collection Logic should be Transfer Logic, as in 129	"Transfer Logic"	Change applied
146 (previous)	IPC	formatting	Please do not italicize	Change applied

30, 166 (previous)	BC	formatting	Capitalize "Question"	Change applied
253 - 391 Preliminary Rec #3 (previous)	RrSG	<p>Guidance for Contracted Parties should be developed and rolled out by Contracted Parties, and should give practical methods to achieve a specific goal.</p> <p>The RrSG is concerned that this guidance is not practically useful to those Registrars who do choose to differentiate, or that it can or will be used by a majority of Registrars. We have made a number of comments on how the guidance could be improved but we're not confident that in its current state it will be useful.</p>		Not clear what minor edit is being proposed
289 Preliminary Rec #3 (previous)	RrSG	Should be no 'must' requirement	Change to "then Registrars SHOULD publish..."	As this is part of the guidance section, this change seems consistent with how other parts of the guidance have been written.
497 - 517 Feasibility of unique contacts (previous)	RrSG, GAC	Charter question responses should be clearly identifiable	Add headers making the responses to the two questions clearly separated, the same as in the Legal v Natural section	Headers added

505 - 508 Feasibility of unique contacts (previous)	RrSG	To clearly respond to the question	Language should more clearly state that it is not a requirement	Please provide specific suggestions – note, the response already states “risks and other concerns that prevent the EPDP Team from making a recommendation to require Contracted Parties to make a registrant-based”.
172-180 (previous)	BC	Provide link(s) to IRT document(s) where these terms are defined		Footnotes added with links to relevant documents.
45 (previous)	BC	Clarity and balance.	Add final sentence: “In their view, no evidence has been put forward that confirms or quantifies claims that operational or financial burdens would result from such a practice.”	Change applied
272 (previous)	BC	typo	add close parenthesis after “non-personal data”	Change applied
307 (previous)	BC	Clarity	replace “has selected legal person” → “has self- identified as a legal person”	Change applied
317 (previous)	BC	Clarity	replace “has selected natural person” → “has self-identified as a natural person”	Change applied
324 (previous)	BC	Clarity	“...to designate legal or natural person type.” → “...to self-identify as a natural or legal person.”	Change applied

324 (previous)	BC	Clarity	“The Registrar should also request the Registrant to confirm whether only non-personal data is provided for legal person type” → “The Registrar should also request a Registrant self-identified as a legal person to confirm that no personal data has been provided.”	Change applied
327 (previous)	BC	clarity	similar to 324 above	Change applied
345 (previous)	BC	clarity	“If the Registrar has inferred <i>that the Registrant is a</i> natural person or has detected personal data...”	
400-402 (previous)	GAC	Relevance	Unsure as to relevance suggest removal	Change not applied - This was added at the request of the RySG as it was part of the Council’s instructions to the different groups.
436 (previous)	GAC	Clarity	change “non-contracted parties” to “by parties other than the controller(s)” this was EPDP language sent to B2B that could have been clearer and would make reading easier.	Change not applied – please note that a footnote was already added in response to previous comments that “Some EPDP Team members believe “by non-contracted parties” should be changed to “by parties other than the controller”. It should be noted however, the definition provided above was included in the question to and guidance from Bird & Bird.”

436 (previous)	GAC	Clarity	GAC	Not clear what is being recommended
440 (previous)	GAC	Clarity	change "non-contracted parties" to "by parties other than the controller(s)" this was EPDP language sent to B2B that could have been clearer and would make reading easier.	Same footnote has been applied for previous definition.
519-522 (previous)	GAC	Repetition	Remove 519-522 as this is repeating 513-517	
48 (new)	NCSG	clarity	Include a footnote to provide the link of the exact legal guidance referenced here.	Change applied
56 (new)	NCSG	clarity	Add "Even though any form of differentiation could increase risk compared to current risk levels" before "publishing legal persons' data based on differentiation...".	Change not applied – this is the view of those that believe that differentiation should be required so this cannot be considered a minor edit unless supported by those in support of this overall paragraph.
59 (new)	NCSG	clarity	Include a footnote to provide the link of the exact legal guidance referenced here.	
199 (new)	NCSG	Clarity	Provided 'via' the SSAD. Change 'to' to 'via'.	Change applied

