

From: Maureen Hilyard
Subject: Joint GAC-ALAC Statement on the EPDP
Date: 25 March 2019
To: Cherine Chalaby

Dear Cherine

It is again my pleasure to be able to inform you that the ALAC has approved the Joint GAC-ALAC Statement on the EPDP (link to: https://atlarge.icann.org/advice_statements/13255) with an additional first sentence in paragraph 3 which was entered by the GAC to further clarify the application of GDPR to personal data.

Once again I apologise for the delay.

Regards
Maureen

ICANN64 Joint GAC – ALAC Statement on EPDP
13 March 2019, ICANN64 Community Forum in Kobe, Japan

The GAC and the ALAC take this opportunity to congratulate the EPDP team and the GNSO Council on the development and approval of the Phase 1 report. The Phase 1 report provides a baseline for ensuring GDPR compliance as it pertains to the processing of Registration Data. The views of the GAC and the ALAC are aligned overall as it pertains to our outstanding concerns, as articulated in our respective statements to the report.

The GAC and the ALAC would like to underline the importance of complying with the GDPR, which protects the privacy of natural persons and allows for the processing of and access to data for legitimate purposes. The EPDP Final Report of Phase 1 provides a sufficient basis for the work to progress to the subsequent Phase 2.

The GDPR only applies to personal data of natural persons and therefore does not regulate the processing of the data of legal persons (unless such data also relates to an identified or identifiable natural person). While the report makes no distinction between natural and legal persons' data, the GAC and the ALAC note that there is agreement between them on the need to distinguish between natural and legal persons, and that there are remaining concerns related to the practical implementation of this principle, which should be addressed as a matter of priority.

The GAC and the ALAC highlight the importance of data accuracy. In accordance with Article 5 of the GDPR, every reasonable step must be taken to ensure the accuracy of the data in view of the purposes for which it is processed. The report does not require explicit measures that guarantee the accuracy of the data in order to serve the purposes for which they are processed.

The GAC and the ALAC note the importance of the technical contact field which allows contact with network operators in case of technical problems. Given the fact that the admin field has been eliminated, the technical contact field should be required to be offered by the registrars and not optional. This elimination hinders the ability for the registrant to be contacted for resolving technical issues, which was the initial reason for the creation of WHOIS.

The GAC and the ALAC note the importance of exploring the need of having an ICANN purpose that addresses related DNS research requirements pertaining to the security and stability of the internet.

The GAC and the ALAC would like to remind the community of the importance of protecting the public interest. GTLD registration data is used by, among others, law enforcement, cybersecurity professionals, CERTs and those enforcing intellectual property rights online including brand protection as well as businesses, organizations and users assisting in combating online fraud.

Moving forward, the GAC and the ALAC are committed to continued participation in the EPDP and the expeditious development and implementation of a model that permits lawful disclosure of non-public registration data for legitimate purposes. It is the view of our two advisory committees that a model for disclosure is equally as important to address expeditiously as the Phase 1 activity. We urge the EPDP to develop practical yet expeditious timelines, including a deadline in which to conclude the Phase 2 work.

The GAC and the ALAC note that their position is generally aligned with the positions of the SSAC, as expressed in particular in SAC 101 and SAC 104.