

Q&A Pod Transcript

Plenary Session WHOIS Changes Under GDPR
Wednesday, 21 October 2020 10:30-12:00 CEST

1. From Jeff Neuman: All - Hello. Can I ask that all of the Questions in the Q&A pod are visible once entered as opposed to only after they are addressed? I am not sure if it is already set up that way, but the past few plenaries, it was not set that way be default. Thanks, *Louie Lee*
-Live answered
2. Why are there zero European speakers at this session? So much for a global internet, *Michele Neylon*
-What can I say, Michele. We should have been more proactive when planning the session. As I'm sure you are aware, things take on a momentum and details become the focus, rather than the big picture. On behalf of the planning committee, I apologize.
3. What is the quality of data when a registrar discloses data, is it usable for investigations?, *Theo Geurts*
-Live answered
4. Question to Interisle researchers, who funded the Phishing Study?, *Monika Ermert (eLance journalist)*
5. Greg, David Conrad's presentation based on DAAR Yesterday showed the exact opposite. Does this mean there is less abusive registrations but more abusive websites?, *Luc Seufer*
-Live answered
6. QUESTION: Do we have stats on the frequency of valid data being stolen and substituted for the criminals' data ? Historical data has already been scaped, much is still valid QUESTION, *Stephanie Perrin*
-Live answered
7. Greg seems to be saying that there is no benefit in taking domain names down when a report is received as the damage is already done? That seems very counter-intuitive., *Volker Greimann*
-Live answered
8. Greg: what are the characteristics of the remaining 40% (60% of phishing attacks were registered by phishers)? *Reg Levy - Tucows*
9. QUESTION: Has ICANN assessed the impact of other national data protection regulation on ICANN's operations? When does ICANN plan to implement the legal requirements of other countries?, *Viacheslav Erokhin*
-Live answered

10. Is the chat session included in what's posted about the session after its conclusion?, *Craig Schwartz (.BANK)*
-Hello Craig. The chat transcript is generally not posted separately after the session. It is available as part of the Zoom recording. But we will go ahead and post the chat transcript separately after the meeting for this plenary session.
11. <QUESTION> what percentage of phishing reports are remediated (domains suspended) by contracted parties without the need for cybersecurity data requests?, *Elizabeth Behsudi*
12. Thank you for quick response!, *Viacheslav Erokhin*
13. I want to ask the same question I raised during yesterday's plenary in line with Monday's public session discussing ICANN meetings in general. What is the purpose/goal of this Plenary? How does this Plenary advance the work of ICANN? And, What do the panelists believe are the next steps?, *Jeffrey Neuman*
-Live answered
14. support Jeffs question: Jeffrey Neuman: I want to ask the same question I raised during yesterday's plenary in line with Monday's public session discussing ICANN meetings in general. What is the purpose/goal of this Plenary? How does this Plenary advance the work of ICANN? And, What do the panelists believe are the next steps?, *Jorge Cancio*
15. '@Owen, thank you for presentation. How many requests has NameCheap received for redacted information and how many of these requests have resulted in the release of the data based on the balancing test applied by NameCheap?, *Lori Schulman*
16. One of the key question here (thanks Theo Geurts) hasn't been answered yet: What is the quality of data when a registrar discloses data, is it usable for investigations?, *Ben*
-Live answered
17. '@Anyone - following Luc's question, while we many not agree on trends, we do agree that there is a problem. Even if the trends are going down, has there been any correlation with the trend and implementation of the voluntary framework? Agree, that even downward trend doesn't mean we don't have an issue and that we still need to figure out access to data that doesn't create inordinate liability., *Lori Schulman*
18. Please remind speakers to say who they are when they speak, *Michele Neylon (Blacknight)*
-Thank you, Michele. We will remind the speakers to say their names.

19. To finish the thought, that doesn't create inordinate liability but delivers a meaningful response rate for legitimate requests for information for investigation of suspected unlawful activity., *Lori Schulman*
20. Are there stats about how many victims are contacted by LEA or consumer protection agencies via using their Whois data?, *Monika Ermert (eLance journalist)*
21. What is the status of engagement efforts within ICANN with LE and others to fashion a system (SSAD) for access to redacted WHOIS data?, *Elizabeth Behsudi*
22. It seems clear that there is (a) a real and compelling need for data for various legitimate purposes (and GDPR recital 4 specifically speaks to the issue of third party access (privacy is not absolute)), and (b) at the same time a risk that PII could be abused (now less a risk with non-public WHOIS). Rather than restating well-known (personal) positions on disclosure, has there been any discussion on zooming out and looking at a new anonymized identity framework that may be able to serve both ends? [On (a) see e.g., https://edps.europa.eu/sites/edp/files/publication/19-02-25_proportionality_guidelines_en.pdf -- which gives several clear examples supporting disclosure for investigation purposes.], *Brian Beckham (WIPO)*
23. Would adoption of privacy laws in the us not be a beneficial move as it would enable equivalency decisions and thereby data transfers?, *Volker Greimann*
24. <Question> Can Owen walk us through a balancing test where data is requested for a domain name, based on a trademark, and the domain name is used for phishing, malware, etc.? <Question>, *Fabricio Vayra*
25. Most European registries offer a data release services (compliant with GDPR) if a requestor can provide evidence of a trademark registration - is it known if gTLDs and other ccTLDs are thinking of adopting a similar model? This helps enforcement efforts tremendously, *Natalie Leroy*
26. Question to Owen/Rrs, do you believe that a registrant would not *reasonably expect* that a disclosure request would be submitted to a registrar where an allegation of infringement is presented (the UK's ICO guidance speaks to this reasonableness criteria, e.g., the example of disclosure being reasonable to pursue legal claims (one example is debt collection))? [will put link to ICO text in chat], *Brian Beckham (WIPO)*
27. Question to Owen: The Practical Insights on Data Disclosure from Contracted Parties presentation and webinar were very helpful, thanks. What do you think Owen (or the panel) when we as a law firm, follow the data disclosure format you provided to the letter, showing the domain name, identifying the Requestor, the

legal rights, legitimate interest and confirming that the request is in good faith, and that the data will be processed legally, why is it that most registrars refuse to disclose the data and rarely propose any solution to obtain it. Is that a situation that you think is acceptable?, *David Taylor*