



COALITION FOR ONLINE ACCOUNTABILITY

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TO: Akram Atallah, Cyrus Namazi, Goran Marby, Cherine Chalaby, ICANN
FM: Dean Marks and Steve Metalitz, counsel to COA
RE: ICANN Delays in Finalizing the Implementation of the Privacy/Proxy Consensus Policy
DATE: July 18, 2018

Dear Sirs,

We write to express our serious concern and frustration with the lack of progress in finalizing the implementation of the privacy/proxy consensus policy (PP IRT).

As you know, the privacy/proxy consensus policy was adopted by the ICANN board unanimously in 2016. Since then, COA has been active in the PP IRT charged with assisting ICANN staff with the implementation of this policy. While this work has been near completion for quite some time, there has been virtually no progress to finalize implementation since before the ICANN 61 meeting in Puerto Rico.

We understand that ICANN has been the cause for the delay because: (i) it was quite late in providing updated pricing details, and (ii) a final legal review has been pending for several weeks. While we were informed that the legal review would be completed by the end of June, we have still not heard any concrete answers/guidance that emerged from such review.

We were grateful for and encouraged by Akram's June 6, 2018 letter to Graeme Bunton and the Registrar Stakeholder Group and Akram's statement that "it would be more prudent to continue to drive the PP IRT's work to completion while a review of the GDPR's impact is underway concurrently." We clearly agree with pushing forward to complete the PP IRT. But ICANN's inaction over the past four months seems to deviate from this prudent path.

The privacy/proxy consensus policy represents a solid example of success of the multistakeholder policy development process. While we certainly didn't achieve everything we wanted at the outset, we believe it is a good compromise solution that addresses the very pressing need for--as Akram put it--"predictable, consistent and more transparent processes among providers and registrars."

Moreover, we believe a good deal of the work set forth in privacy/proxy consensus policy could serve as a useful foundation for some of the issues that will be addressed in the upcoming EPDP on the Temporary Specification. Therefore, completion of the PP IRT and implementation of the policy should help to move the EPDP forward.

As we noted in our May 10th letter, now is the time to expedite implementation of this policy, not to further delay it. We are concerned by the July 12 e-mail (cut and pasted below) because we believe the privacy/proxy consensus policy already appropriately reflects GDPR data processing related concerns. Indeed, we believe the policy already takes account of the principles and standards set forth in Section 4 of the Temporary Specification, including but not limited to Sections 4.4.2 and 4.4.8.

Please let us know what steps you are taking to expedite any remaining legal review or formatting issues to incorporate general provisions of the Temporary Specification so that the comprehensive implementation documents developed by the IRT over more than a year of intensive IRT efforts can be finalized. A failure of ICANN to timely implement a multi-stakeholder policy, especially in a post-IANA transition world, seriously undermines ICANN's credibility, and calls into question this form of governance. We stand ready to assist in the successful conclusion of the implementation process of the policy the board approved almost two years ago. And we believe doing so is in the best interest of ICANN and all of its stakeholders.

Sincerely,

Dean Marks

Contact Information Redacted

Steve Metalitz

Contact Information Redacted

From: Gdd-gnso-ppsai-impl^{Contact Information Redacted}
Bivins^{Contact Information Redacted}

on behalf of Amy

Sent: Thursday, July 12, 2018 3:13 PM

To: ^{Contact Information Redacted}

Subject: [Gdd-gnso-ppsai-impl] PP IRT status update; no meeting Tuesday

Dear Colleagues,

We will not have a PP IRT meeting on Tuesday, 17 July. Our next meeting is scheduled for Tuesday, 24 July.

The Legal review of the current PPA draft is not yet complete. However, I do have an update on the GDPR-related work.

We believe that we will likely need to add data processing provisions in the PP materials—potentially in the policy document. We are planning to begin drafting this, for discussion with you, using Section 4 of the [Temporary Specification](#) as a model for adaptation. If you have other

ideas or recommendations for this initial drafting exercise, please let us know. We can discuss this at our next meeting. A data processing addendum may also be needed for the PPAA.

In addition, we are also considering how to address data processing in data escrow agreements. I should have more to share on that with you by our next meeting.

Best,
Amy

Amy E. Bivins

Registrar Services and Engagement Senior Manager

Registrar Services and Industry Relations

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