
ICANN80 | PF – GNSO: Registrars and ICANN - Good RDRS Requests

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TERRI AGNEW:

Thank you very much. Hello, and welcome to the Registrars and ICANN Good RDRS Request. Please note that this session is being recorded and is governed by the ICANN Expected Standards of Behavior.

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ASHLEY HEINEMAN:

Thank you, everybody. Just a reminder, I'm Ashley Heineman, chair of the Registrar Stakeholder Group. I might even stand. So I want to thank you all for being here today. As you might recall, these are interesting sessions and that they were originally intended to have an audience of registrars—newly accredited, aren't members of the Registrar Stakeholder Group, considering it—but we've branched it out to also include topical issues of interest.

So today we're going to start off with an overview of the Registrar Stakeholder Group and ICANN accreditation process and how the market looks in Africa. And then we're going to transition over to a session that we titled, probably not the best, Good RDRS Requests. Depending on the registrar, what a good request is might be a little bit different. But the intention here is that we really want to have

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dialogue. We want to share our thought process with you. We want this to be constructive. We want as much dialogue as possible, which is why we have the tables set up. This is an experiment. So please, please, please bear with us. We've never done this format before. Depending on how this works, we might do another session like this or make tweaks to it depending on how it goes. But Sarah will be giving you some more information as to how this will all work. But I do encourage you all. Our mantra, really, assume good intent. We're here to be helpful. We want to be engaged in a good dialogue with you all. So with that, I will stop and give it back to Sarah who's going to give it over to Mukesh.

SARAH WYLD:

Thank you.

MUKESH CHULANI:

Thank you, Sarah. You really did just give me the mic. Morning, everyone. My name is Mukesh Chulani. I represent the Global Domains and Strategy division. I'm supposed to speak about the ICANN registrar accreditation, but I want to make sure that we're speaking to a relevant audience. Otherwise, we should just skip to the relevant topics after. Is there anyone in the room who's considering registrar accreditation? Okay. It's the fastest talk of my life. If there's anyone that you know who might be considering it, we're delivering a more detailed session tomorrow for RICTA ICT association here. Actually, the very same location at 6pm tomorrow. So if you can just help us spread the word. And then I can give back to Sarah. Thank you, everyone.

SARAH WYLD: Thank you so much, Mukesh. That was great. Next up, next slide. We will now speak with some of our local registrars to hear about being a registrar here in Africa. And we will start with a bit of an intro from Eric.

ERIC ROKOBAUER: Hello, everyone. Oh, yay. It works. Awesome. Yes. If you don't know me, Eric Rokobauer. I work for the Squarespace domains registrar and I currently serve as the RrSG secretary. Today, similar will be done on previous sessions. Because of the region we're in, we just try and strive to have an opportunity to speak with registrars in the region to get their perspective, and so we prepared a few questions. And I'd like to welcome if you don't know Adeola and Francisca from Upperlink Limited, a Nigerian based registrar. They're going to be speaking to us, answering a few questions. Welcome. Thank you again for coming here with us.

So if we could have the questions, awesome. I think Adeola—and I apologize if I'm saying the name incorrectly, so feel free. I'm sorry?

UNIDENTIFIED FEMALE: Adeola.

ERIC ROKOBAUER: Adeola, welcome. Okay. So we'll start with a question first with you. What can ICANN do more to increase member engagement in Africa?

ADEOLA RAJI: Hi, everyone. Good morning. My name is Adeola. I work with Upperlink Limited. Okay. I remember growing up, we usually see every other recognized nation you see name of different ones. And then ICANN, I have never heard of ICANN until I joined. I see industry. So which means the awareness is very low in Africa. Hello. Can you hear me? All

right, thank you. The awareness is very low in Africa. A lot of people don't know, they don't have idea. In my country. If you mentioned ICANN, what it is, Institute of Chartered Accountants. That's the ICANN we know.

So how can ICANN come in? There are a lot of ways. I met someone and he said he was trying to become a registrar. But the process of becoming one is just too tedious for him to go through and the requirements. These are the things I was trying to tell him, "Okay, we have a group that can help you to do this." These are the things ICANN needs to look into. Also, I read through the Coalition for African Digital, if I'm right, I'm getting ready because it's so comprehensive. From my understanding, the rate at which domain registration goes in Africa is very low compared to every other region. And also, when we're talking about the penetration in my country, I check and the Internet penetration is about 46%. We are a population of about 225 million, which means ICANN is not scratching 1% of our population. There is a lot of work to be done by reaching out to local registrar partner with—I'm using Nigeria as an example—partner with local establishments, civil servants, businesses in Nigeria. By doing so, we can create awareness, do outreach. We have younger ones, very bright ones, in IT industry. If you check record of Nigeria, we have wonderful people that are doing a book. How many people have this information? How many people who knows that they can come in and contribute to the policy? I'm given the opportunity to be here, and it has been awesome. Thank you, Registrar Stakeholder Group, for actually including. It's been awesome. And that's because I have the opportunity. So we need to give opportunity to people out there to be part of the group. And I'm

sure before we know it, we see improvement in people engaging in ICANN community. Thank you.

ERIC ROKOBAUER: Do we have a question? We can do that if we—

ADEOLA RAJI: Please, questions.

REG LEVY: I just have a quick clarification. When you said that Internet penetration—did you say 46% or 4 to 6%?

ADEOLA RAJI: 46%.

REG LEVY: Thanks.

ADEOLA RAJI: Thank you. Any other question?

ERIC ROKOBAUER: I don't see any. Do we have any in the Zoom Room? I don't know if anyone's asking there virtually.

ADEOLA RAJI: Okay. "What can the Registrar Stakeholder Group do to make membership more attractive?" We already do a wonderful job. I'm not going to lie. Big thanks to like of Zoe, Prudence. Everyone here, they are wonderful. But that is known to us because we are part of the group. And being here is also part of the opportunity from Registrar Stakeholder Group. But other people that are out there, I saw somebody and I was like, "Why you know part of Registrar Stakeholder Group?" He said, "What are they doing there?" To him he feels is this

group of people that really don't know so much about the industry, and how to start preaching to him about what is going on, how he can be part of the group, how he can contribute. So we need to be out there. The way if you want people to know, it is more than just meeting every two weeks. We talk about so many things that impacted our industry, that impacted our company. And these are the things that people need to know about this. And also appreciate ourselves more. We have wonderful people here.

I remember talking to Prudence on data, "How are you guys doing this effortlessly? You come together, you talk about policy, you go from one meeting to another. It's so fascinating." It's fascinating for me because I'm not into policy. And when I see people doing so, I know it's a lot of work. And these are things that people need to see. Let's appreciate ourselves. Let's show people that are doing the job. You're doing well. And by doing so, the outside that we see into what we are doing in this community. Thank you. Is there any question, please?

ERIC ROKOBAUER:

I don't see any. Thank you. Thank you again, Adeola, for going through those with us.

ADEOLA RAJI:

Thank you for the opportunity. Thanks.

ERIC ROKOBAUER:

Absolutely. And now we'll move to the other two questions with Francisca. So if you can help us, can you speak to a challenge that registrars face from your perspective, and how would you address it?

FRANCISCA ILOEZUMA EZEObELE:

Thank

you, everyone. From my perspective from Nigeria, I think the major challenge we have is cybersecurity. We often combat cyber threat, which oftentimes we see a lot of actors trying to penetrate into our system. So we have these issues and we should be able to find ways to make sure that these breaches are mitigated.

So I have a few points that I think that we could do better. We have a lot of challenges, though, like domain hijacking. You know what that is. Domain abuse, all of those, and DDoS attack. So they look at Africa or Nigeria as a place that is not so secure or vast in technology. So they try to penetrate to attack us more. So from my perspective and what we have been trying to do in my organization is we try to enhance more security to our system. So any security features that we see that is going to protect our system, that is what we go for. We don't mind going through three or four more securities, just to ensure that the system is secure. We also do updates on our software and ensure that they are operating on the latest operating system. So there wouldn't be any loopholes for any hacker to be able to penetrate.

Some registrars already have two-factor, that's 2FA, already. So if you do not have that, it's advisable you go for that. So that if they try to, they see that it's so difficult for them to do that. So we'd be preaching a lot to our customers as well too. If they can do that on their own end then it's fine.

We also have implementing e-mail system that is secure. So the job is not just about the registrar alone, you need to create more awareness. So we do more awareness to our customers, to our partners, that's fine, you have gotten this from us, how secure are you from your own

end? How do you identify malicious e-mails? Because once you open it, it's going to affect you. So you don't come back to the registrar and start blaming them. So we do more of training and awareness to our customers as well so they will be able to understand what phishing attack is, and spoofing as well.

So, at the end of the day, we have, the last one is use domain registry lock. Yes, it's important. When you register a domain name, try and lock your domain name to avoid someone trying to hijack it. The last one is make sure that your WHOIS protection is secure as well.

Your details—now the GDPR is already in Nigeria, we upgrade the Nigeria Data Protection Regulation. So we are starting following that as well. So your information is not all that on the Internet for people to be able to steal your data as well. At the end of the day, the most important thing is that make sure that your system is secure. Thank you.

ERIC ROKOBAUER:

That's excellent. Thank you for sharing what your company is doing and the very helpful recommendations from a security perspective. Any questions for there? If not, then lastly, knowing what your company is doing is good, but then what about your domain customers? What do they care about most?

FRANCISCA ILOEZUMA EZEGBELE:

They care about so many things, a lot of things. But from my own perspective, for my organization, I think pricing comes last. So I have listed some out. I'm going to go through reliability and security. I think, first of all, they try to rely on the organization that they are purchasing

from, how reliable are they? How secure are they? Once they realize that, yes, my file, my data is secure with the organization, I think that's a tick for them so they can consider you. They tend to check how reliable and secure we are first before they move on to the next one which is customer support. Yes. Because the business we run, you can purchase from anywhere from the world. So the timing, how can I connect to you and I have an issue of customer support? Are you there for me by the time I need you to? So we operate 24/7, operating the customer service system. So each time you call, someone is always there for you to talk to. If you can't reach us, we have a support line, that is our e-mail system that's always open, ticketing system, just drop a message, someone will respond to you immediately. So, like I said, number one on the list is reliability, and then security. We move to customer support.

Now, the major question that I think they care about most is how reliable is my registrar? So if you tick that box that you're reliable, so your customer would consider you. Then how reliable are they with my data? That's another question. Am I giving my data out to a registrar that is not reliable? Now, after giving it out, how secure are their system? Is it easy to penetrate? So it's one thing to give out, it's another thing to secure. So they consider those two options.

Then another question they could ask is, can I trust your system? If it's a yes, fine. How secure are they? Then fine. Can I get support whenever I need it? I said that earlier on. Then do they have the DNS features that I need? If they do, then okay. How seamless is your domain portal or website? Then how much comes last before I consider pricing. So some people think pricing comes first. No. All other features, all of the

benefits or whatever I've listed come first before you speak about your pricing. So if you tick all these boxes and they are correct, then I think you will be number one in the registrar business. Thank you.

ERIC ROKOBAUER:

That was excellent. Thank you very much. Any questions? Any last questions for Francisca or Adeola? If not, we thank you both for your time. Oh yeah, we do. I'll stop there.

SEGUN AKANO:

Good morning, everyone. My name is Segun Akano. I'm the CEO of Upperlink. I came to Durban 2013. That was my first contact with ICANN, and I was fascinated. That's when I made up my mind that Nigeria at that time did not have any registrar. So it was in .durban that we started the process. So by 2015, we got accredited. And I was the only registrar in Nigeria then.

However, there was a paradox. At that time, we had like 150 million population. We had like 18 million SMEs. You'd imagine a country like that and the only registrar should at least be able to boast one million registrations, but it never happened that way. We had that challenge of feasibility, awareness, ability to promote your product.

Domain system is a retail end thing. It's not entrepreneurial. You need to reach to the last mile of the market. And how do you get there? Through publicity, through advert, Google AdWords. The cost of all this was enormous for us. And I remember in another meeting, Verisign came—maybe Marrakech also. Verisign came with a proposal that we can support 50% of your publicity if you reach certain triggers of .com. That also we tried, we could not.

So the basic challenge in Africa is that capital to invest in this business. As of today, my company is a FinTech company. We had two financial systems. We are now the biggest payment system in Nigeria. And that's where we get the money to support this business. I know Go Daddy have like maybe 200 million domains. If only they make \$1 in one domain as profit, they can run, they can be feasible. But for us, we are still under 50,000 domains. No matter how much we make because when it's \$10, Verisign makes maybe \$8. Well, \$2. When you work the mathematics, it doesn't add up. Yesterday we were at ccNSO and .rw (Rwanda), the total the count of 6005 so far. There is no way that .rw will have money to live very well, except government supports them. So, these are the issues. Whoever will come as a registrar in Nigeria must first bring that capital. The population is there. The Internet growth is also there. It was the same I went to Europe and they plotted that if you want to grow, go to Africa. Europe, 24 countries, they are saturated. Everybody is almost 98, 97, 96% Internet penetration. We are still at 50%. So these are the issues.

Is anybody from Verisign here? There are registries? Okay. But we had that plan, that okay, let's support you 50% of your publicity. Show us your brief, what you want to advertise, we approve it. We bid half of the cost, and then we'll move. It didn't work out. So it's now that we are getting money from FinTech, want to pump money back to domains. And we know that once we pump money into publicity, Google AdWords, YouTube, [inaudible], people will get to know us. Because if any ordinary person log on to Internet today, the first name we will see is GoDaddy. It does not care whether GoDaddy is Nigeria or Rwanda. You just want the service, and it's online, you will get it. And

that's why GoDaddy dovetails all of us in Africa. I give credit to them. But we are coming up. So thank you.

SARAH WYLD: Thank you so much. Okay. Next slide, please. Eleeza. We'll hear from Eleeza Agopian.

ELEEZA AGOPIAN: I'm going to stand over here so I can see you and you can see me. Hi, I'm Eleeza Agopian. I'm with ICANN. My team is the one that has helped set up and lead on the work side on the Registration Data Request Service. And I know many of you are already involved in it. But I'm going to give you a little bit of some background on how we got to where we are today before you get into your discussion about requests.

So how was this pilot program developed? Obviously, the RDRS kind of grew out of the Board and the GNSO Council's discussions about the EPDP Phase 2 recommendations for an SSAD, which is the System for Standardized Access/Disclosure. I have to say it slowly because I always get it wrong. From the discussions about those recommendations, one of the big unanswered questions was what would be the demand for such a system. So the Org worked with the GNSO, what was then the GNSO Small Team, it's now the Standing Committee that's led by Seb, to create a system that was kind of based on the NSP model. So that request tickets could be routed to the appropriate registrar for the domain under question. The system has now been up and running since November. We just published—not published. We just shared in the Prep Week some statistics on about six months of data of running it. If you haven't seen that, I'll drop in a

link in the chat to that session recording. That'll give you kind of a sense of where we are, how many requests we've received, etc. I know today we're going to talk about the details of those requests. Each month, we've been publishing reports on the metrics that we have been collecting. So how many requests, how many registrars are involved? What are the approval and denial rates? What are the reasons for those, etc.? There's quite a bit of information in there. These criteria or these metrics were actually agreed upon with the small team. And we've been sharing them monthly with the Standing Committee and getting feedback on tweaking those, and hopefully making them of greater use to all of you, as we look to make this system successful and useful for both the registrars and the requesters. And the Board has also been following this discussion pretty closely as it'll help inform their decision on the SSAD policy recommendations that are still outstanding.

So obviously, registrar participation is critical to the success of the system. I think in our next report you'll see I think it's up to 59 registrars are participating now. No? I got that number wrong. It's up to 59% of DUMs are covered and the registrar number I think is 90. Thank you. I got the numbers backwards. That will be in our next report, which will be published in about a week's time. I want to thank the RrSG, actually, they have been really fabulous in helping to get registrars to participate, many of you who are participating here today, and we're really grateful for that.

Let's see if we can go to the next slide, we'll talk about how we've been engaging with the Standing Committee on the system itself. And actually, our liaison to the Standing Committee is Lisa Carter, she's not

in the room physically but she is in the Zoom Room, and can help answer some questions about this if you have any. But each month we've been meeting with the Standing Committee twice to talk about both metrics, but also the system itself and any enhancements we can make. I won't go through this in detail. But we've already worked on several system enhancements that have been in response to things that the Standing Committee has prioritized, including several requests from registrars. One that is upcoming that we anticipate to be live by the end of the month is a requirement for requesters to provide their address. Previously, it was optional. We're also going to be tracking the jurisdiction from which those requests are coming and sharing that information. So it kind of gives you a sense of how we're looking at it. There's quite a few other enhancements that have been requested and the Standing Committee is still discussing and prioritizing. And of course, you can find information about that from the Standing Committee.

I think that's it. I want to keep it brief because I know you want to spend a lot of time on the request. So I'm happy to answer any questions.

SARAH WYLD:

Thank you so much, Eleeza. I see no questions. I don't have the Zoom open. All right. With that, next slide please. We will move to Ashley Heineman for some background. Yes, I'm reviewing. We're just waiting for the slide. There we go. Reviewing requests. Thank you.

ASHLEY HEINEMAN:

Hello again, everybody. So yeah, we're going to start now kind of trying to give you some insight into our thought process when we get a

request and what are reviews look like. Next slide, please. So, my Zoom has died. So I'm not able to get back in.

First off, there is no one-size-fits-all approach. Each organization is going to calibrate their balancing test and review based on the risk that they're willing to accept. So that is why you're going to see different responses from different registrars. There's lots of reasons for that—the determination of risk, the level of their legal counsel, those sorts of things. But it's also really important to note that there are multiple elements to establishing a legitimate interest that goes beyond a lawful basis. So these terms are important, and we often interchange them, but they're different. So you can have a lawful basis as a requester. But that does not guarantee that you have established your legitimate interest. So some of the things that we take into account when determining whether or not there's a legitimate interest is how will this data be used? So when somebody is making requests, you'd be very clear as to how this data is going to be used. How will the requested data work towards achieving the goal? A lot of times people ask for all the data. You have at least with GoDaddy less chance of getting what you want it for asking for all the data because a bar is a lot higher when you're asking for all the data. So if you don't need all the data, don't ask for all the data.

Are there less intrusive mechanisms to achieve the stated goal? Articulate what you've used in your request. There was an example thrown out yesterday. That was supposed to be DMCA. If your stated goal is "I want a name taken down," WHOIS is not for that. Sorry. Not WHOIS. Registration data getting access to data is not for that. So we

refer them to the DMCA process in the U.S. because that was a U.S. based organization.

What is the minimum data needed to accomplish the stated goal? Again, that goes to don't ask for all the data if you don't need it to achieve your goal.

Will the requester be a responsible custodian of the requested data? Again, this kind of goes in line of how are you going to store this data? How long are you going to keep this data? We need to know this. Because if you're going to be using it badly, that comes back to us as the liable party.

How do they intend to responsibly process the data? That kind of goes into the previous point. But again, how are you going to use this data?

What is the lifecycle of this data? What's it going to be used for?

Is the data subject in a restrictive jurisdiction? And what I mean here is that some areas within countries have much more restrictive data protection laws. Germany is an example. So just because it might be able to be released for some folks, it won't be for everybody. There are populations that are—sensitive is not the right word—but they need additional protections. What's the word I'm looking for? Vulnerable, yes, vulnerable populations. So other things. So, in a nutshell, what I'm trying to articulate here—and this is not a set list, it's not exhaustive—is that the purpose, necessity, and balance are the new how, what, and why. There are many factors that we take into consideration as registrars when reviewing these requests.

As a reference, I've included here, A Guide to Data Protection Principles by ICO, which is, I believe, a British-based organization that I know at least at GoDaddy and others use as our guiding star. This

provides us with a lot of detail as to what we need to do to be compliant with GDPR and what we shouldn't do. So if you want some additional insight as to our thinking, this is a really good resource for you to look into.

STEVE DELBIANCO:

Before you advance the slide, Ashley, I was wondering whether these elements that are listed here, are most registrars doing all of them, some registrars do some and not others? How representative is this element list?

ASHLEY HEINEMAN:

I would say that answering these questions are important to comply with the law. I can't tell you what other registrars are doing. But this is a good reference to make sure you've got these covered in your requests if you want the highest probability of getting a positive response. But no, there is no set best practice. We haven't gotten together in putting together a list because that's, honestly, at this point not possible. Because again, it comes down to the risk we're willing to take.

Okay. Next slide. Going back to Sarah. Thank you all.

SARAH WYLD:

Okay. It is time. Thank you so much, everyone. So our table groups and our resume Breakout Room are going to look at real RDRS examples. Yes, real. They are anonymized for privacy. We put pretends domain names. We changed a little bit just to make sure we're not directly quoting someone, but they are real. So each table leader has a packet of printouts, there are 12 examples, the pages are double sided, there really are 12. Don't all start with number one. Shuffle them up.

You can write on the paper if you want to. That's why we left lots of space. If you have thoughts or comments, write them down so you don't forget them.

Our goal here is to share our goal. My goal is to share specific examples so that we can all come to a shared understanding of what happened and why. So you are, of course, free to disagree or agree with a disclosure decision. You can have a different opinion than the one that the registrar came to, and that's okay. All the info we have is here on the page. So try to focus on what the request contained, what it lacked, what we can learn, what patterns do we see, what improvements could be made. Maybe this is just the landscape of this is how things are or maybe things can change for the better.

So the role of the table leader is to help understand the information in the examples, keep the conversation on track, and note any insights or new ideas that you want to share. We will reconvene as a group again with 15 minutes left in the session. I will come around to each table and we will each have a chance to speak to the room.

Now, online participants, there is a Zoom Breakout Room and you have to click a button to get into it. So that's a little diagram right there. You click on More and then Breakout Rooms. There is only one room but you have to select the room. Okay. So if you need help, just chat. Any questions before we get into it? All right. I'll be walking around, talk to each other. Have a good time. Thank you.

UNIDENTIFIED FEMALE: Jeff, if you could please pause the recording.

SARAH WYLD:

Hi, everyone. I just want to clarify one thing, and I apologize. To be clear, this page that you have is not what the RDRS looks like. We did not just print out the requests. I made a template and I copied the information into it with some slight modifications for clarity. So, for example, where it says request category and then was the provided category correct, the category that we're showing here is what the requester said, and then was it correct or not as the registrar's evaluation. Thank you.

Okay, friends, I'm so sorry. I have one more. I said it backwards. The category is what the registrar has determined the request category is. So, for example, Request #3, they came in under a research non-security category but the registrar determined that that was not correct. It was actually an intellectual property lawyer. Thank you.

Hello, everyone. This is your five-minute warning. We have five more minutes to talk about these. Start thinking about what you want to share when we come around to the tables. Thank you.

Okay, friends. We are going to reconvene. Everybody wrap up your conversations, please. If you are online, you can go back into the main Zoom Room.

Welcome back, everyone. Thank you so much for these really interesting in-depth conversations. We will now move among the tables. Each table leader will have two minutes. Please don't talk too long because we have a lot of tables. We'll have some time to share, a recap of the insights and ideas that came from the table. I'm very excited to see what things come up multiple times, also like weird wild ideas that only one person thought of. Very exciting. We will start by hearing from our Zoom Breakout Room, which has been led by Heidi,

who so kindly got up in the middle of the night to do this work, although she couldn't be here in person. So we appreciate Heidi and everyone online. Is Heidi able to speak? Yes. So please go ahead, Heidi.

HEIDI REVELS:

Thank you, Sarah. And welcome to ICANN80, everyone. Our Breakout Room had some good discussion. I think one thing that we want to call out is the requests that we saw from Intellectual Property owners that came from law firms. Typically, we saw that when a legitimate firm presented a legitimate reason for needing the data and sort of like a bounded reason, if we could say that, then that information was released to the IP owner or the law firm. There was one instance where that information wasn't released. And I think that was RDRS sample 6 maybe. There was an IP owner that was requesting data related to EU and UK trademarks. And that one was denied. We thought that was particularly interesting because, one, we had seen where unless your Intellectual Property firms were able to get that information, but two, because the jurisdiction was different. So one thing that we'd like to call out is that the decision to disclose are going to depend on the registrar's SOPs and the jurisdiction in which they were operating. So it's very possible that that registrar that was involved with the UK and EU trademark infringement took into consideration the jurisdiction in which they were operating.

We also note that a good request explains everything clearly. What I was getting at with the Intellectual Property law firms, the more sophisticated the requester is and the more sophisticated the request, the more likely it seems that that information is going to be released to the requester.

Also, we noticed that multiple domains in a request can lead to different outcomes. So there was one request where a number—we'll say there were six domains that they had requested information from, some of the domains that expired, some of the domains were available under privacy/proxy. And so the request varied rights. It was approved for some domains and denied for others.

Another call out is that in this particular request, the registrar suggested that the request was approved even though that information was available publicly. So from Amazon registrar perspective, we wouldn't consider that request to be denied. In our denial, we would have said this information is available publicly via privacy WHOIS.

So we thought that was interesting. You can get different responses depending on your registrar and how your registrar has categorized those responses. Typically, when the privacy is included on the domain, registrars will direct you to the public information. I think that's helpful to know. Because oftentimes registrars, we're getting pushback that we're not disclosing information. But if we're saying that this information is publicly available and this is how you can get to that information, I think that that's particularly helpful.

The last thing that I'll call out is that we should consider detailing if a request is denied, what is needed to get that information. So one request that we looked at did show that the request was denied but they also provided additional follow-up steps for the requester on how to get that information. So it shows some cooperation from the registrars on how you can actually access that information.

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- SARAH WYLD: Thank you so much, Heidi.
- HEIDI REVELS: Request in our online Breakout Room. Of course, absolutely.
- SARAH WYLD: Perfect. Thank you. Cooperation makes it happen. All right. So now coming to tables. We'll start over here with Ashley.
- ASHLEY HEINEMAN: I'm going to turn it over to Margie.
- MARGIE MILAM: Hello, everyone. We had a great conversation here at the table. A couple of concepts I think that we want to highlight. And I think we're echoing what was said earlier, that having more of an explanation on the denial reasons would be really helpful. I think that what we're seeing sometimes is we get a denial, more information needed, but not enough clarity on what that is.
- Also, we think it would be helpful as the balancing test is being conducted to take a look at the nature of the registrant. If they're a legal person and the information doesn't have personally identifiable information in it, like it's in a domain admin, an e-mail address, or some major company, that that should be something that weighs in favor of disclosure, especially now with NIS2 making that really clear, eventually that would be public anyway.
- Another thing is—and I think it's highlighted in one of the slides—is really taking a look at whether the data subject or the recipient is in a territory with strict privacy laws because that may or may not impact the balancing test as it's being considered.

Then on the point of having the information already public because it's a proxy service or privacy service, it probably would be helpful to point them to the public WHOIS. Because sometimes I think you're probably getting people that are not very knowledgeable of how it works. So saying it's publicly available without actually pointing to where to find it I think would probably take some of the pain away from getting the denial in that case.

Then we also had a discussion about and a little bit of disagreement on if you're asking to be able to create your claim. Because we were pointing to Article 49.1 of GDPR that allows for transfers that are necessary for the establishment exercise or defense of legal claims, and we feel that that should support disclosure. But then there's the question about how that plays in with the legal basis. And how those two concepts interact and whether they affect each other. That's the question.

Then there was also a note that consumer protection shouldn't be used when you're an IP holder. But I think from the IP perspective, consumer protection is very much baked into the trademark rights. That's why you have trademark rights, to protect the public from harm. So I think that having more leeway with respect to the categories in that regard makes more sense.

Then I think the last point we have is that there's a distinction between a privacy service and a proxy service. A proxy service is one where all the data fields have the information of the provider. A privacy service has the registrant field saying redacted for privacy. And in that scenario, it actually is appropriate in our view to ask for a reveal of the registrant name. If you're looking for the rest of the information, then

that's the stuff that's covered by that. So yeah. I just wanted to note that sometimes we lump privacy and proxy services together in the same category, but they're actually different, and that's something that I think we should take into consideration. Thank you.

SARAH WYLD:

Thank you. I love it when we agree. I am very prone to lumping those two together and I need to learn to stop. Thank you. Excellent points. I'm going to move to that table now. Okay. Who wants to speak from this table?

REG LEVY:

I took notes, I guess. One of the major issues that came up at our table regularly was consistency. People want to make sure that registrars are making similar or the same decisions throughout so that they know that when they submit a request, it will be approved or it will be denied on the basis of the same information.

We also came up with a request to have more information provided about what to do if a denial decision is made. Our table also included a request for how and why that decision was made because they want to conduct a legal review of their own.

IP means two things. IP address and billing information were also requested as being part of the available information to request by requester, as well as a concern about client confidentiality when disclosing information to the registrar that is going to be used to make that determination.

Finally, there was a suggestion that the law enforcement tab indicate whether you are a member of law enforcement or using that information so that you can report it to law enforcement. Because

those are different things. And someone who is in the process of filling out a police report may think of one and not the other.

SARAH WYLD:

Thank you, Reg. I like that idea. All right, this table. Who wants to speak for this table? It'll be Eric.

ERIC ROKOBAUER:

Here we go. Okay. So I'm representing this table. I apologize if my words aren't coherent. It's so hot in here, as we see all the fans blowing. Much like the other groups that have spoken—oh, that is so nice. Wow, this is a team right here. Much like we've heard already from the other breakout groups. We also shared similar, especially with the privacy/proxy confusion, we need to clarify that out.

I like what Reg in her table had said about providing better definitions of the categories. One of the observations we had, which a little interesting, was how, regardless of the category that was selected, whether there was correct or not, there was still requests that were approved. So it became a question of, well, what does the category really serve? What is it helping? Is there a better way? Should we be providing definitions for it? Because it doesn't seem to be doing any help otherwise. So that was one thing we caught.

One of the things we want to talk about the takeaway from the room—and this may be a little spicy—is obviously RDRS is trying to help intake these, but is there a different way, a centralized way for requesters to find the registrars directly? So many times we're taking these in, but could there be a way where the requesters know how to reach out to those registrars at the same time?

SARAH WYLD: I love it. Thank you so much. It's so exciting hearing all these ideas. All right. Essie's table. Who's speaking here?

ESSIE MUSAILOV: I'll be representing our table. We had a couple of interesting points. One, Zak told us he was an IP lawyer, right? That he does not use RDRS. And he goes directly to the registrars.

The second thing—one of the things we've discussed is privacy and proxy. When we say registration data is available under proxies, we had a question in terms of why then we disclose it under UDRP? If we're treating the proxy as the actual data, then one, when we get a request from UDRP, we actually disclose the underlying data. Yeah, that I don't know the answer to that question. So that was something to take away. We might want to discuss regarding privacy.

Other than that, it was interesting to see that the registrars at this table, there was a request where the data was approved and I think it was an IP lawyer for building a UDRP case. Most of us thought that would not have been approved at our registrars. So there's definitely a consistency issue that we've found.

We also saw some of the people using it inappropriately, and that's just education. Maybe it's on us or maybe on its own ICANN to put it out there and explain what that RDRS is for.

I think, finally, I just want to point out again that we're trying to collect data here. We're trying to understand who is requesting. And so it's really important. They said maybe categories are not important, but I think they're actually are important, because we want to see who is using the system. I think it's on all registrars. We don't just see that if it's a wrong category, and we're just denying it. So we will correct it.

And we'll respond. But I think it's very important that the registrars actually have that data. Thank you.

SARAH WYLD: Thank you so much. All right, James.

JAMES BLADEL: All right. Hi, everyone. Hot mic. I'm James Bladel. We had this table. I don't think we have a number or anything. I wanted to kind of push off on what Essie and I believe Eric was saying from his table is that the category question is interesting, because we had a number of folks either choose the incorrect category, and one was approved and one was denied. So it seems like there is some validity to the idea that what is the category doing if it's going to be questioned or corrected by the registrar during the evaluation process? There was one very easy one, by the way. We all agreed to deny the one where they sent spam through the attachment function. But we didn't spend a lot of time on that one. But the next one was there were a couple that were split decisions, sometimes because the data was public or it was public and it was involving a privacy service, which then I'd failed at my job of keeping the conversation on track, because we then talked a lot about privacy and proxy services and how they operate.

I did want to point out. I thought there was some helpful constructive feedback with regard to a request that was denied because it was incomplete and they had not submitted all of the necessary or requested information. That kind of expanded into a conversation of how we can make more of the fields mandatory in the submission process so that it won't actually be capable of going through. So self-checking along the way. And then I was thinking, and then we didn't

talk about this, but maybe that's where the category function comes to play by directing that logic to, well, if you selected this category and you say your law enforcement, and then we're going to say, "Where's your warrant? Where's your subpoena? Where's your whatever?" and then they send you, "Well, I don't have one of those." And maybe the submitter will think, "Maybe I should go back and revisit that category submission and change it to cybersecurity researcher or intellectual property."

Anything else that I forget, a big one? I think we had mostly reached consensus on all of the decisions, except that there was one that was a split decision. Okay. Thank you.

SARAH WYLD:

Thank you.

ROGER CARNEY:

Thanks, Sarah. This is Roger. We'll be quick because we kind of agreed with most everybody. We got through eight of them. And again, generally, it was agreed the decisions were correct and either approved. The one that tripped us up completely was the privacy one because we didn't know that it was privacy. So all the information that was provided and we didn't look at the extra details at the bottom, everyone thought should have been approved, and then got to it and that was like privacy. Again, kind of a tricky situation that should be worked out.

On the request, as everybody has made comments on, we were confused if it was a request category or a requester category. Because it seemed like the registrars changed most of them based on who they thought was requesting the data and not why they were requesting

the data. So I think that maybe that's a clarity. Is it the requester that's being asked for or maybe it should be both? Maybe there should be who's asking for it and for what reason. But besides that, I think others commented also on information going back to a denial should be more informative and help to the next step, whatever that is. If it's privacy pointing to the service, if you know it or however that is, or if it's proxy pointing to that because it's who the registrant is and it's public. But I think even on other things that aren't privacy, be more constructive on helping. Even if it's denied, help out the next step.

SARAH WYLD:

Thank you. So interesting. Okay, Owen.

OWEN SMIGELSKI:

In the interest of time, I'm actually going to hand it off to Mark because he had some pretty interesting feedback about usability of the system.

MARK:

We started by looking at the specific examples and the one that we talked most about was this law enforcement one and kind of along the lines of the point that Reg made earlier. I think part of the issue here is that people don't really understand how the system is supposed to be used or what any of the things in it mean. And so for the law enforcement one, you could look at it on its face and say, "This person was pretending to be law enforcement," and we should deny this request. Or you could look at it and say, "This person doesn't understand what the question is asking. They intend to probably go to law enforcement and think they need this information." So maybe that's why they're putting in the wrong answer. I think, generally, that goes to the usability of the system as a whole, which is this system is

designed for people in this room, not for the general users of the Internet. This system is completely unusable for them.

First of all, they'll never find this system. There's no way they will ever, ever find it. If they somehow stumble across it, the first thing you do is create an ICANN account. Who the hell is ICANN, right? So now they're like, "I'm creating this account in this organization, I don't know who it is." Then they go to make a request. This is the first thing they're greeted with. "Before you get started, please check ICANN's lookup tool to see if the registration data you're seeking may be publicly available." Okay. Again, who is ICANN? What is this lookup tool? I don't know. In some cases, the domain name may have been registered through a privacy or proxy service. What's that? In which case, the RDRS may not be the right tool to request the nonpublic registration data? What is nonpublic registration data? I don't know. I'm an average person. If you're seeking underlying proxy customer registration data or privacy customer contact information, this may impact how or if a registrar—I don't know what registrar is—will review your request via this service.

This is completely not understandable to any average person. And some of the things we discussed were like when people improperly ask for expedited, right? Well, of course, you're going to ask for it. You're asking them, "Do you want it fast or slow?" I want it fast, right? They don't understand that you have to have a reason. Example four is you go to McDonald's and you order food, they say, "Do you want it fast or slow?" I want it fast. So they don't understand what any of these things mean.

So instead of being greeted with this gobbledygook on the first page, maybe what might be better is kind of a very, very simple explanation of what some of these things are. For example, law enforcement. This question is asking, if you are law enforcement, not if you intend to go to law enforcement. If you're not law enforcement, don't check that box. Expedited. There has to be imminent harm or some other thing for it to be expedited. Otherwise, we're not going to provide expedited information. That's two examples. But you could easily come up with 10 more. But just even a general explanation in plain English of what this system is and what its purpose is and how it will be used and what you should expect to get back I think would be helpful. Okay. I'm done. Thank you.

SARAH WYLD:

Thank you. We're back. Okay. Thank you so much. Really good insights. Final table, pre-wrap us up.

UNIDENTIFIED FEMALE:

I will take us home. So we had some really, really nice discussions. But I'm really impressed by the fact that people got what? Eight examples? We got three. That was it. We had so much discussion. The miscategorization was the big thing. We had one example, and I'm just going to end on this. The example was where someone had identified as law enforcement and they given all of the correct evidence but identified themselves as law enforcement. Everyone at the table but one person said no. And I just wanted to let everyone know that the data was granted, which just goes to show that sometimes even people can be more strict than registrars. Just throw that out there.

Just throw that out there. It was a really great discussion. And thanks, guys. Thanks.

SARAH WYLD:

Amazing. Thank you so much. All right. So we're just about done. Before we wrap up, what did you think? Hands up if you would like to have something similar to this session again with breakout discussion groups? Oh, lots of hands. Okay. Now put them down. Hands up if you don't want to do this type of thing again. All right. Thank you for your honest feedback. I want to hear from you later about why. And thanks, everybody, for joining us today. I really appreciate your time. Thank you.

[END OF TRANSCRIPTION]