25 February 2020

RE: Privacy/Proxy Services Accreditation Issues Implementation

Dean Marks
Executive Director and Legal Counsel
Coalition for Online Accountability ("COA")

Dear Mr. Marks:

Thank you for the 31 October 2019 letter describing your concern about the implementation status of the Privacy/Proxy Services Accreditations Issues (PPSAI) policy recommendations. We appreciate the COA's analysis and input, as well as the open and constructive dialogue that has surrounded this topic in the months following receipt of your letter.

We acknowledge your concern regarding access to registration data that is masked by privacy and proxy services and the scope of the Expedited Policy Development Process (EPDP) on the Temporary Specification for gTLD Registration Data.

As indicated in the 05 September 2019 letter from Cyrus Namazi to the GNSO Council, the ICANN organization placed the implementation of the Privacy/Proxy Services Accreditation Issues Policy recommendations on hold in recognition of the overlap between the efforts of the PPSAI Implementation Review Team (IRT) and the EPDP team, as well as resource considerations detailed therein. It is important to note that the decision taken by ICANN org was made with the GNSO's acknowledgment and deferral in their 30 April 2019 letter, after a request by the ICANN org to the GNSO Council for analysis on 04 March 2019.

Fundamentally, the EPDP and the PPSAI are both working toward the same goal, which is to determine lawful mechanisms for access to and treatment of non-public registration data.

Recommendation 27 of the EPDP Phase 1 envisions updates to existing policies and procedures in light of the newly developed Registration Data Policy. Accordingly, the ICANN org team is reviewing both the PPSAI policy recommendations and the implementation work completed to date. The outcome of this ongoing review may uncover inconsistencies which will need to be referred to the GNSO for consideration.

Phase 2 of the EPDP will provide critical analysis of and guidance for the implementation of a standardized model for access to nonpublic registration data, including, among other things, accreditation of requestors, content of requests, response requirements, query policy, acceptable use policy, etc. The recently released EPDP Phase 2 Initial Report, which is now open for public comment, specifically seeks to determine the eligibility and justification criteria for a request for access to non-public registration data as part of Recommendation #3.

The disclosure framework set out in the PPSAI consensus policy recommendations may very well serve as a useful input to this work. We note that the Phase 2 Initial Report specifically listed the PPSAI Final Report, including the Illustrative Disclosure Framework, in the "General Required Reading".

The Board again thanks you for your participation and analysis on this matter. The development of consensus policy concerning access to nonpublic registration data is of the utmost importance, and we believe that the path proposed by the ICANN org is reasonable in light of the variety of intertwined issues involved. We invite you to provide further input via the public comment process on the EPDP Phase 2 Initial Report, and hope that you will continue to be engaged with the development of these issues.

Sincerely,

Maarten Botterman
Chair, ICANN Board of Directors