

भारत सरकार  
Government of India  
इलेक्ट्रॉनिकी और सूचना प्रौद्योगिकी मंत्रालय  
Ministry of Electronics & Information Technology  
इलेक्ट्रॉनिक्स निकेतन, 6, सी जी ओ कॉम्प्लेक्स, नई दिल्ली-110003  
Electronics Niketan, 6, C G O Complex, New Delhi-110003  
Website: www.meity.gov.in

संख्या  
No. L-13014/12/2018-IGD-Meity

दिनांक  
Date.....03.08.2018.....

Sub.: Comments on ICANN's proposed Framework elements of Unified Access Model for continued access to non-public WHOIS data in compliance with GDPR

Dear Dr.Tarek,

I am directed to communicate Government of India's views. We have perused the Framework elements for Unified Access model for continued access to non-public WHOIS data, the IPC/BC proposed Access and Accreditation Model, SAC 101 Advisory regarding Access to Domain Name registration Data, Temporary Specification on gTLD Registration Data and the Interim Model for Compliance with regards to the EU-GDPR. The proposed implementation, in its present form, intends to apply GDPR, meant for European Subjects and the data linked to them, uniformly also onto citizens of other countries worldwide. These frameworks, premised upon the GDPR, are likely to pose serious threat to security and integrity of the internet and a massive setback to the ongoing initiatives to bridge the "digital divide".

The proposed Accreditation Frameworks being overly complex will disproportionately increase the compliance burden for the accredited parties while failing to address many of the practical and real issues such as confidentiality of the organisation, queries and rate limiting/ volume of queries as well as validation of the output data serviced. There are unanswered questions as to how and whether national laws of all the nations and / or international conventions shall be respected and taken into account in any Accreditation and Access Model for eg. the fact that the enjoyment and exercise of copyright shall not be subject to any formality and that the remedy of passing off is available in case of non-registered trademarks (as registration of copyright is not mandatory as per the Indian Copyright Act) in keeping with the Berne Convention, 1971. The present framework is likely to result in protectionism and bureaucratic hurdles to accessing WHOIS data and will adversely impact the resolution of issues relating to cyber crime and cyber security. EU countries will themselves be impacted.

The constitution of the EPDP, and its draft charter, Mission, Purpose and deliverables have been analyzed in detail. The problems which have been identified and enumerated above are not covered within the scope of the EPDP and likely will not be addressed by its outcome. Hence, it is imperative that the above problems receive the attention at the highest level at ICANN keeping in mind the urgency and immense potential for harmful outcomes if left unaddressed.

India, as you may recall had expressed its support to multistakeholder approach and has since been engaging with ICANN and the global multistakeholder community. We once again reaffirm our commitment to stay engaged in the bottom-up community-led policy making process at ICANN.

In view of all the foregoing, we would like to urge you to immediately call to the attention of all those concerned, including those in the ICANN Board, to the above issues and to take immediate necessary action in order to effectively address our concerns and issues.

राहुल गोसाई  
०६/०८/२०१८.  
(RAHUL GOSAIN)

Director, Government of India &  
Alternate GAC Representative

Dr. Tarek Kamel  
Sr Advisor to President & SVP, Government and IGO Engagement  
ICANN Headquarter,  
12025 Waterfront Drive, Suite 300  
Los Angeles, CA 90094-2536  
USA