

September 29, 2025

Submitted via ICANN Public Comment Portal

Re: Registration Data Request Service Standing Committee Report for GNSO Council Review

The International Trademark Association (INTA) thanks ICANN for the opportunity to provide comments to the referenced report. Our responses are organized by recommendation.

Recommendation 1: Continue the RDRS Beyond the Pilot Period

Recommendation Summary: The Standing Committee recommends maintaining the RDRS pilot service and continuing to promote voluntary registrar participation beyond its initial two-year term until a long-term permanent solution or successor system is agreed upon.

INTA Response: INTA does not support continued operation of the RDRS in its current form. As documented in early reports from INTA members, the RDRS has significant structural flaws that impede its performance and undermine its utility for registration data requests and access. This includes a confusing and cumbersome requestor interface decipherable only by requestors intimately familiar with ICANN consensus policy and data privacy law, the voluntary nature of registrar and registry participation, and a lack of clarity and predictability in instances when requests are refused. These deficits have been well-documented through community input for nearly 2 years. INTA has hosted ICANN staff to INTA's public meetings, held workshops, and provided practice tips to INTA members, all in the spirit of promoting use of the RDRS. A year ago, we hosted a session for 20 corporate members to learn about their RDRS experience. Their feedback was gathered under Chatham rules, and we discovered that most of the corporate members either gave up on RDRS after a few requests or never completed submissions due to the dense and confusing requestor interface. In open INTA and ICANN meetings, we learned that registrars are confronted with similar challenges when working with requestors. The requests are not complete or fail to contain legally required information to perform balancing tests regarding the release of data. Frustration from both sides of the request equation points to the poor design of the system and we cannot support the continuance of such a flawed model.

Echoing the position of the Intellectual Property Constituency, INTA supports the development and implementation of a disclosure system, as distinct from a mere ticketing or communication system, that mandates participation by all contracted parties, incorporates practical authentication mechanisms, implements clear evaluation standards based on the Expedited

Policy Development Process (EPDP) Phase 2 Framework and subsequent updates to applicable data privacy laws, and provides meaningful oversight and accountability measures.

INTA notes that the Standing Committee has recommended that the eighteen EPDP Phase 2 Recommendations either be implemented or rejected as a package. As such, the current RDRS process does not allow sufficient changes to be made that enable effective use. We support the development of an alternative system that meets the requirements and is much more user-friendly for requestors and the contracted parties.

We support the intention of ICANN to find an economical, efficient system to process registration data requests. The RDRS is not that system. Suspension of the system should not be interpreted as defeat. There are lessons learned about usability and efficiency that should be incorporated into a new system.

Recommendation 2: Allow for authentication of interested requestor groups, beginning with law enforcement

Recommendation Summary: The Standing Committee recommends that the RDRS or its successor system include authentication of specific user groups, beginning with law enforcement, while continuing discussions with other interested requestor constituencies.

INTA Response: INTA supports user authentication in any new system that is developed. However, INTA does not support limiting authentication to governmental law enforcement agencies. Authentication should include those who are investigating civil law complaints, governmental consumer protection agencies, cybersecurity researchers, and child safety organizations at a minimum. Ultimately, anyone who seeks registration information with a legitimate interest should be authenticated including day-to-day consumers who wish to know who is in control of domain names that may be linked to fraudulent and abusive websites.

INTA provides this response with the caveat that any authentication process/program must not be used as a way to further delay the contractual and legal obligations of registrars and registries to otherwise provide requestors with access to registration data.

Recommendation 3: Implement Key System Enhancements to sustain and evolve RDRS post-pilot while more policy work is underway

Recommendation Summary: The Standing Committee recommends implementing key system enhancements, including API integration, user experience redesign, and optional ccTLD participation, listed in order of priority.

INTA Response: INTA supports the incorporation of these suggestions into a replacement disclosure system for RDRS, as distinct from a mere ticketing or communication system.

Recommendation 4: Consider further policy work on the RDRS

Recommendation Summary: The Standing Committee recommends further policy development regarding privacy/proxy data and inclusion of RDRS links in RDAP responses.

INTA Response: INTA recommends that any further policy work focus on a realistic disclosure system to replace RDRS. Creating links to such a system through RDAP makes sense, as well as through web-based Whois for any registrars that opt to maintain it.

Recommendation 5: Consideration regarding next steps on EPDP Phase 2/SSAD Policy Recommendations

Recommendation Summary: The Standing Committee recommends that the GNSO Council undertake a targeted review of each EPDP Phase 2/SSAD recommendation to determine suitability or warranty for future policy work. The SC recognizes the emphasis the EPDP Phase 2 Team placed on the recommendations being considered by both the GNSO Council and ICANN Board as a single, interdependent package. Accordingly, the SC recommends that the Board should consider the 18 recommendations together as one package. The SC further recommends that when the GNSO Council and ICANN Board engage in a dialogue, the Council should recommend that the ICANN board reject the SSAD recommendations (as a package) and send them back to the GNSO Council for further action and Supplemental Recommendation.

INTA Response: INTA notes the Standing Committee's recommendation regarding the EPDP Phase 2/SSAD policy recommendations, but INTA recommends that any referral back to the GNSO Council should be contingent upon specific conditions that must be met to avoid repeating the policy development failures that have characterized more than a decade of work in this area.

INTA notes the Minority Report filed by the IPC and Business Constituency during the EPDP Phase 2 process where fundamental concerns were raised that have proven prescient in light of the RDRS pilot experience. The IPC and BC identified critical deficiencies including:

1. Insufficient Mechanisms for Data Accuracy.
2. Inadequate Differentiation Between Legal and Natural Persons.
3. Deficient Access Mechanisms.
4. Excessive Cost and Complexity.

Further, INTA members are deeply concerned that it appears that many refusals of RDRS requests are, apparently, categorical refusals of requests based on alleged intellectual property infringement. This is in direct contradiction to EPDP Phase 2 Recommendation #8.5 which explicitly prohibits denial solely on that basis. This is a clear example of one of the fundamental flaws in the current approach and it informs INTA's decision to withhold support for the continuation of the RDRS system.

As noted in the IPC comments, the policy landscape has evolved significantly since the EPDP Phase 2 recommendations were developed. The EU's NIS-2 Directive, passed in December 2022, introduces new requirements that favor disclosure to requestors with legitimate rights and mandate the collection of accurate domain name registration data. NIS-2 specifically requires Member States to implement laws to ensure that domain name registration services collect and maintain accurate and complete registration data, and that this data is accessible to legitimate parties for cybersecurity, intellectual property, and law enforcement purposes. These developments necessitate comprehensive policy changes to align ICANN's existing registration

data framework with evolving legal requirements that prioritize legitimate access over blanket data protection.

Following the comments filed by the IPC, INTA supports referral of the SSAD recommendations back to the GNSO Council if the following conditions are met:

1. Any renewed policy work must incorporate the lessons learned from requestor experiences during the RDRS pilot, including the documentation of arbitrary denials, inconsistent legal interpretations and disclosure outcomes, and systemic barriers to legitimate access (including the lack of mandatory participation by all contracted parties).
2. Strong procedural guardrails must be established around any future policy development work to prevent the repetition of the process tensions that characterized the original EPDP. These guardrails should include a requirement for the development of policy consistent with established legal principles, including those outlined in EU Commission Recommendation 2024/915¹ and the NIS-2 Directive's requirements for accurate data collection and legitimate access.
3. The policy work must be scoped realistically to address core access issues without attempting to solve every conceivable edge case. The community cannot afford another decade-long process that fails to deliver functional solutions.

INTA firmly believes that ICANN consensus policy and accreditation agreements must mandate compliance with the handful of regional and national laws specifically related to the global DNS, which includes Article 28 of the EU's NIS-2 Directive. The contrary position, that ICANN consensus policy does not explicitly require contracted parties to violate applicable law, is inadequate.

Recommendation 6: Maintain the current Standing Committee with narrowed Scope

Recommendation Summary: The Standing Committee recommends maintaining itself with a narrowed scope to advise ICANN on continued operation, maintenance, and potential enhancement of the RDRS.

INTA Response: INTA does not support continued operation of the RDRS for the reasons described throughout this submission. We recommend that the standing committee be

¹ (14) Although domain names are of paramount importance in the online environment, they can be used to support IP-infringing activities online. This is the case when IP rights are misused in the name of the domain itself (i.e., cybersquatting or typo-squatting) or when the domain name leads to a website that supports IP infringements. Domain name registration data (WHOIS data) is critical to the security, stability, and resilience of the domain name system. For this reason, Directive (EU) 2022/2555 (NIS-2 Directive) obliges Member States to require top-level-domain ('TLD') name registries and entities that provide domain name registration services to collect and maintain accurate and complete domain name registration data in a dedicated database that enables the holders of the domain names to be identified and contacted. Access to specific domain name registration data must be provided upon lawful and duly substantiated requests by legitimate access seekers. A reply should be sent without undue delay and in any event within 72 hours of receipt of any requests for access. Under Directive (EU) 2022/2555, legitimate access seekers are to be understood as any natural or legal person making a request pursuant to Union or national law. https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=OJ:L_202400915

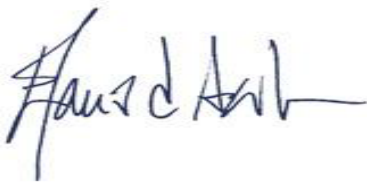
repurposed to address an economical, efficient registration data access solution that addresses the ongoing concerns of requestors and contracted parties.

About INTA

INTA is a global association of brand owners and professionals dedicated to supporting trademarks and complementary intellectual property (IP) to foster consumer trust, economic growth, and innovation, and committed to building a better society through brands. Members include nearly 6,500 organizations, representing more than 34,350 individuals (trademark owners, professionals, and academics) from 185 countries, who benefit from the Association's global trademark resources, policy development, education and training, and international network. INTA is a founding member of the Intellectual Property Constituency of ICANN.

Thank you for consideration of our submission. We appreciate the public comment mechanism as one of ICANN's many tools for promoting multistakeholder participation in the policy development process. If you have any questions about this submission, please contact Lori Schulman, Senior Director, Internet Policy at lschulman@inta.org.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Etienne Sanz de Acedo', with a stylized flourish at the end.

Etienne Sanz de Acedo
INTA Chief Executive Officer

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