

Internet Committee project update: Availability of registrant data post GDPR

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Overview

- ECTA Internet Committee project focussed on ccTLDs
- Varying levels of redaction of WHOIS information
- Dependent on interpretation of GDPR and “personal data”



Full or partial redaction?

Full redaction	Available for legal persons but not natural persons	Available for both natural and legal persons
UK	France	Czech Republic – name only
Germany	Italy	Bulgaria – name only
Austria	Netherlands	Finland
	Belgium	
	Hungary	
	Romania	

Belgian level of redaction

Domain information	Tick where available pre-GDPR		Tick where available post-GDPR	
	Natural person	Legal entity	Natural person	Legal entity
Registrar	X	X	X	X
Registration date	X	X	X	X
Expiration date				
Updated date	X	X	X	X
Status	X	X	X	X
Name servers	X	X	X	X

Belgian level of redaction

Registrant contact	Tick where available before GDPR		Tick where available after GDPR	
	Natural person	Legal entity	Natural person	Legal entity*
Name		X		X
Organisation		X		X
Street		X		X
City		X		X
State		X		X
Postcode		X		X
Country		X		X
Phone		X		X
Fax		X		X
Email	X	X	(Online contact form)	(Online contact form)
Language	X	X		X

*No contact information if owned by legal entity but natural person listed as registrant, i.e. employee

Belgian level of redaction v others

- Sensible approach taken, but:
 - move to online contact form
 - companies now listing employees as owners of domains?
- .UK – complete redaction + some domain name watching providers will not even provide domain information
- .NL – only name and organisation provided for legal entities + admin/tech email (anonymised)
- .FR – No data provided for natural persons and all data provided for legal entities

Enhanced access

- Some ccTLD registries provide an enhanced level of access to WHOIS data for law enforcement agencies and official bodies

Enhanced access available	Not available
UK	Italy
France	Hungary
Germany	Romania
Netherlands	Finland
Belgium	
Czech Republic	
Bulgaria	
Austria	

Belgian enhanced access v others

- .BE - no specific access system for law enforcement or official bodies
- DNS Belgium must disclose information if receive substantiated request from government authority
- Belgian government's FPS Economy – special take down powers for domains linked to serious criminal activity
- NL and .FR – similar approach; enforcement authorities can obtain data upon request
- .UK - enhanced version of the searchable WHOIS database for specific law enforcement agencies

Data release requests

- Most ccTLD registries have a system via which interested parties can request redacted registrant data
- Request must be supported by a “legitimate interest” claim in line with GDPR
- Of member states surveyed, Romania, Bulgaria and Finland notable exceptions



DNS Belgium requests

Request form for personal data disclosure

Submit to:

DNS Belgium vzw
Ubicenter
Philipssite 5, box 13
3001 Leuven
Belgium

If the registrant is a private person, his contact data cannot be consulted through WHOIS.

Please use this form if you do want to request the personal data of such a private registrant. Your request should be motivated and will be evaluated by the person responsible for data protection at DNS Belgium.

1. INFORMATION REGARDING THE REQUESTER

(Company) name	
Contact person	
Address (Street, City, Postal Code, Country)	
Email address	
Telephone number	
Company number (if applicable)	

2. DOMAIN NAME FOR WHICH REGISTRANT CONTACT DATA ARE REQUESTED

Domain name	
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DNS Belgium requests

3. STATEMENT REGARDING THE JUSTIFICATION OF THE REQUEST

3.1 Please substantiate the reasons why the request is made and how you intend to use the requested data. You can attach additional documents should the provided space be insufficient. Please indicate the enclosure of such documents.

3.2 If applicable, please identify in detail any legal basis you are invoking in 3.1:

Nature and country of legal basis	
(Registration) number	
Owner	

4. DISCLAIMER

The requester agrees to not use the requested personal data for any other purposes than those specified in this request form (and/or the enclosed additional documents).

5. DATE AND SIGNATURE

UK Nominet

- Relatively simple form
- Quick response
- Requests granted if provide details of IP right
- Registrant notified of release of their data

NOMINET

DATA RELEASE REQUEST FORM

Dear **Nominet**

I am contacting you to request non-public data held by Nominet relating to the registration of the following domain:

THE DATA I REQUIRE IS:

- Registrant name
- Registrant postal address
- Registrant contact name
- Registrant contact email address
- Registrant contact telephone number

Please explain who you are and the reason that you are requesting the non-public data (if you require more space, please attach a separate file):

PLEASE PROVIDE YOUR DETAILS.

Name of Requestor:

Organisation or company:

Email address:

Postal address:

Telephone number:

SIGNATURE OF REQUESTOR:

www.nominet.uk

Requests at other registries

- French, German and Dutch ccTLD registries offer similar form for requests
- Italian, Czech Republic, Austrian and Hungarian registries accept requests via email
- Romanian and Bulgarian registries require court order/certificate
- No such system in place in Finland

Fake data

- Data for natural persons most likely to be “fake” now redacted?
- If registrant data is disclosed (e.g. following a data release request) most ccTLD registries have a procedure for reporting fake data – as before
- Majority of other member state ccTLDs will cancel domain name based on fake data
- Can save time and expense of filing DRS complaint / going through ADR procedure



Fake data at DNS Belgium and others

- Complaint can be filed by any interested party - form accessible via WHOIS function
- DNS Belgium contacts registrant requesting details updated. Registrant given 14 days to update data, if no change made, domain name revoked.
- Revoke+ procedure for phishing sites – domain name removed immediately
- .FR – interested parties can submit a verification request to the registry. If registrant does not correct its details, domain cancelled.
- .UK - Nominet will suspend domain and remove content if data reported as fake and not corrected by registrant on request following fake data report

Disclosure in ADR

- Where registrant data not provided or requested prior to filing an ADR complaint, most ccTLD registries will then release the registrant details to the complainant
- Question as to whether complainant will then be given opportunity to amend complaint (as per UDRP at WIPO) not asked to committee members
- Inconsistent responses as to whether registrant details published in ADR decision
- .BE - requires seek registrant information before file complaint (via data release request form) and will disclose data in decisions
- .UK – can file complaint without registrant information. Data will be disclosed and complainant given opportunity to amend complaint

Impact on ADR complaints

- Impact on ability to satisfy “bad faith” or applicable requirement of national registry policy
- Cannot show registrant is engaged in a pattern of registrations of domains which correspond to well-known trade marks if details not disclosed
- Complainant not able to make itself aware of any legitimate interest held by registrant documented in previous decisions

Harmonised approach

- Clearly there is a need for harmonisation across the ccTLD registries within the EU
- Confusion likely to continue until provided further guidance from ICANN / accreditation model approved
- Data release requests available in most member states until then



Thank you

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