



BUSINESS CONSTITUENCY

Article 23 of the Directive has the potential to significantly cut DNS Abuse by restoring the utility of the WHOIS database, but the provision needs to clearly require that TLD registries & registrars verify the accuracy of domain name registration data. A strong and effective NIS 2 Directive requires the inclusion of Article 23, and it should be strengthened and clarified by a number of amendments and recitals already proposed by the parties to the trilogue negotiations and detailed below.

Thank you for considering these proposals and we welcome you to share them with your colleagues.

[In the suggestions below, bold text represents amendments already proposed by Parliament; red text represents suggested new language not already proposed by the parties.]

Article 23 Paragraph 1

As proposed by Parliament; includes text that will help to remedy the inaccuracies in domain name registration data that is collected by registries and registrars:

“...Member States shall **require** TLD registries and entities providing domain name registration services to collect and maintain accurate, **verified** and complete domain name registration data...”

Article 23, Paragraph 3

As proposed by Parliament; includes text that will help ensure that the accuracy of domain name registration information is verified through a more transparent process and, just as importantly, made publicly available. However, the word “require” needs to replace “ensure” in order to strengthen the provision:

“Member States shall **require** ~~ensure~~ that TLD registries and entities providing domain name registration services have policies and procedures in place to ensure that the **database structure includes** accurate, **verified** and complete information. Member States shall ensure that such policies and procedures are made publicly available.

Recital 59

As endorsed by all parties; makes clear the value of accurate WHOIS data to the stability of the DNS and, in turn, a high common level of cybersecurity within the Union. The Parliament proposes additional text that clarifies the responsibilities of TLD registries to verify accuracy and, importantly, suggests a ‘best efforts’ approach that could prove extremely valuable in setting a standard for verification:

“In practice, the collected data may not always be thoroughly accurate, however TLD registries and entities providing domain name registration services should adopt and implement proportionate processes to verify that natural or legal persons requesting or owning a domain name have provided contact details on which they can be reached and are expected to reply. Using a ‘best efforts’ approach, these verification processes should reflect the current best practices used within the industry. Those best practices in the verification process should reflect the advances being made in the electronic identification process. The TLD registries and entities providing domain name registration services should make publicly available their policies and procedures to ensure the integrity and availability of the domain name registration data.”

Article 61

All the parties have proposed elements that will advance accuracy requirements through different accountability mechanisms. Parliament’s proposal includes additional text that would likewise enhance accountability through requirements on accessibility to law enforcement and legitimate access seekers, but the word “provide” needs to replace “enable” in order to strengthen the provision:

“The availability and timely accessibility of the domain name registration data to legitimate access seekers is essential for cybersecurity purposes and tackling illegal activities in the online ecosystem. TLD registries and entities providing domain name registration services should **therefore be required to ~~enable~~ **provide** lawful access to specific domain name registration data, **including personal data**, to legitimate access seekers, in accordance with Union data protection law.”**